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Don Mr. Madge

with the manuscript of
Christie
8 Aug. 1855
INTERESTING

PUBLIC DOCUMENTS,

AND

OFFICIAL CORRESPONDENCE,

ILLUSTRATIVE OF, AND SUPPLEMENTARY TO THE

HISTORY OF LOWER CANADA,

PUBLISHED BY
ROBERT CHRISTIE.

VOL. VI.

Montreal:

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1855.

To the Members of the joint Committee of the Library
of Parliament, viz :

The Hon. the Speaker of the Legislative Council, J. ROSS.

Hon. P. H. MOORE, L. C.

Hon. W. WALKER, L. C.

Hon. J. FERRIER, L. C.

Hon. E. P. TACHE, L. C.

The Hon. L. V. SICOTTE, Speaker Legislative Assembly.

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CHAS. P. LABERGE, Esq., L. A.

M. H. FOLEY, Esq., L. A.



GENTLEMEN,—This volume containing a variety of official papers and correspondence hitherto unpublished, and now for the first time sent abroad, will doubtless prove highly interesting to Lower Canada. It is due, therefore, to you, at whose recommendation the unanimous votes of both Houses of the Provincial Parliament were passed for defraying the impression, to associate your names with the publication. In token then of my respect, and in acknowledgment of the readiness and liberality with which you met my purpose, when I appealed to you on the subject as one of public interest, I take the liberty, of inscribing these pages to you, in the full belief that the country will not deem the money unprofitably voted.

R. CHRISTIE.

Quebec, May, 1855.

INTRODUCTION.

THE papers and correspondence in this volume, relating to the constitution and government of Lower Canada, and other public matters therein, throw upon certain periods of its history much additional light, the more interesting as coming directly from the chief actors themselves in the political drama. A notion has long and very generally prevailed, though without any positive evidence to support it, that the authorities in Lower Canada, particularly during the administration of Sir James Henry Craig, had urgently moved the home government for an alteration in the constitution, and for various innovations upon its civil and religious institutions, but in which of these, or in what particular respects, remained a mystery to the people who were to be affected by the proposed alterations, and without being at all consulted on the subject. Here, however, is a full revelation of the whole scheme.

The correspondence of Mr. Ryland, the objects of whose mission to England, in 1810, the reader will find in Sir J. H. Craig's letter to Lord Liverpool, introduced at the end of the publisher's, vol. 5 of "Lower Canada," is by far the most interesting portion of the collection, and will be found to have been conducted by that gentleman with tact and ability, whatever may be thought of the purposes of his mission, which few of the present day, except those of the old school, will undertake to justify, or approve.

As death has removed Mr. Ryland from amongst us, a short memoir of him taken from a Quebec paper, (*Mercury*, 25th February, 1834,) may not be amiss, that his position and status in the country may be understood. Born and educated in England, the late Honorable Herman Witsius Ryland first entered public life in the year 1781, going out that year to New York as Assistant Deputy Pay Master General, to the King's forces in British North America. Soon after his arrival there he was sent into the enemy's territory, where he remained as Acting Pay Master General to the forces, captured with Lord Cornwallis and Gen. Burgoyne, till the end of the war. On the evacuation of New York by the British forces, he returned with the Commander in Chief, Sir Guy Carleton, to England.

In 1793, the same General Officer, then Lord Dorchester, and Governor in Chief of British North America, brought Mr. Ryland out to this country as his confidential Secretary. In this capacity he continued to serve under several successive Governors of Lower Canada, during a period of twenty years, and resigned under the administration of Sir George Prevost. The confidential and important office of Clerk of the Executive Council, which for several years he had held, previous to his resignation of the Secretariship, he retained until his decease, which took place at his residence at Beauport, near Quebec, on 20th July, 1838. Though a strong party man, Mr. Ryland was a benevolent and kind neighbour, even to those of opposite and hostile politics, and accordingly he was much esteemed in the parish where he resided, by the French Canadian inhabitants, with whom he lived on terms of intimacy and friendship. He had been, in acknowledgment of his services, honored with a seat in the Legislative Council, and moreover was gratified with a pension from the Crown.

As Secretary he had the best possible opportunity of making himself thoroughly acquainted with public affairs, and the principal public men in Lower Canada. The reader will judge of his ability as a diplomat by his correspondence. But Mr. Ryland, it truly must be said, was in his sympathies and antipathies, prepossessions, and prejudices (for who is free of such?) an Englishman to the core, and like his friend and chief Sir J. H. Craig but little apt to conciliate or soothe the prejudices of a people foreign in language, religion, laws, usages and customs to those of his own country, to which they were but recently annexed by conquest and treaty. Indeed, generally speaking, it may be said that the prejudices of Englishmen, if not innate, are at least stubborn and characteristic, certainly not of a nature readily to humour or indulge those of their co-subjects of the other race, still less to give way to them. His convictions in politics, however, were conscientious, and his integrity unimpeachable. The darling project of his heart, was to anglify, but by means compulsory and distasteful to them, the French Canadian people, who, having no wish to be anglied by any means, would not be so "by compulsion." As a servant of the Crown he pursued ardently and indeed ultra zealously, what he believed to be, in the phraseology of the times when he first entered upon public life, the interests of his "King and Country." But in justice to his memory it should be also stated that although he considered the people of Lower Canada insufficiently prepared for free institutions, or self-government, yet in the case of Judge Foucher, when the Crown conceded to the Assembly its right of impeachment, he manfully, at the risk of losing his official appointment, denounced in his place in the Legislative Council the crooked policy of the government in withholding from the assembly the despatch conveying the Prince Regents' decision on this head. Mr.

Ryland was also a strenuous advocate of education, and for instructing the people in order to anglify and qualify them for liberal institutions.

The objects of his mission to England were triple : first, to obtain an alteration or suspension of the Constitution ; secondly, to make the Government independent of the people, by appropriating towards its support the revenues of the estates held by the St. Sulpicians at Montreal, and those of the late Order of Jesuits ; and, thirdly, to induce the Government to lay hold of the patronage hitherto exercised by the Roman Catholic Bishop of Quebec, to the *cures* or Church livings in his Diocese.

The first of these propositions, as it would require the interference of Parliament, and might raise a storm, the Colonial Minister, Lord Liverpool, at once wisely rejected. The two others, not requiring Parliamentary action, were entertained, and after considerable delay and some hesitation, the nation being deeply engaged in war, were determined upon by the Cabinet Ministers, but prevented by the Lord Chancellor (Eldon,) who, to his honor be it told, entertaining scruples on the subject, the whole scheme fell to the ground, and Mr. Ryland's mission consequently proved a failure. As to his purpose of making the Government independent of the people, Mr. Ryland certainly erred, it being contrary to the spirit of the British Constitution that it should be so.

Here a question will naturally occur to the reader acquainted with the population of French origin in Lower Canada, to which expression may be allowed. Had the Government, in virtue of the Constitution and Laws of England, as it would seem it legally might have done, wrested from the Roman Catholic Bishop the patronage of his Church livings, or induced him by the more persuasive means of corruption, as proposed in bribing him, viz :

by a pension or salary, quietly to relinquish it for alleged reasons of State to the Crown, could it have been more judiciously exercised by the Government, and so satisfactorily to those immediately concerned, as it has been uniformly since the conquest to this day, in the hands of their own pastors? Emphatically it may be answered, No. There can scarcely be a doubt that the Church patronage in the hands of the Government would be made subservient to politics; in a word, prostituted. The most supple and subservient of the priesthood, to the Executive, those mixing themselves up with the passions of the multitude, and openly in disregard of the sacred obligations of duty, taking, for instance, a part in elections to secure the return of Executive creatures, or those most assiduous in paying court and doing homage to men in power, would, in all probability, be the most likely to fare best in the church livings; while men of genuine merit, above prostituting the influence of their sacred station to politics, would be passed over, and might live and die unnoticed. At any rate, discontent and disorder, had the Government, either forcibly or through corruption, assumed the appointments to the Roman Catholic *cures*, would, most probably, have resulted; and it wisely refrained from the experiment. The subject has since remained at rest, and it is to be hoped will so remain. The Parliament of Canada having recently, in a very emphatic manner, declared it "*desirable to remove all semblance of connection between Church and State*," it is not indeed likely that it will ever be revived. The Roman Catholic population maintain, at their own expense, under an Act of the British Parliament, their Clergy, and so long as they themselves are satisfied with the management of the Church affairs by their own pastors, any attempt to wrest it from them for reasons of State, would, to say the least of it, be exceedingly bad policy. As, therefore, the

Roman Catholic Clergy are independent of the Government, and not likely to be invoked by it, unless on occasions of great and extraordinary moment, and in a just and good cause, (times have been when they "*have done the State some service, and they (?) know't,*") they cannot but appreciate their position, and must feel that to preserve the respect, and indeed commanding influence and usefulness, belonging in every religious, moral, and social sense, to their holy vocation, all interference with party and politics is to be eschewed. Slaves to these or to the Government, and it would be hard to say which of the two were the baser bondage, it is very certain that, in either case, the people, who in such matters judge correctly, would not hesitate to deem their spiritual guides in a false and degrading position. "Dignified neutrality," to use a borrowed but hackneyed expression from a late high functionary, in self-complacency, and on a memorable occasion in this Province, is the position which in times of excitement best becomes the Ecclesiastical character. These few remarks, hazarded in no unfriendly disposition towards the Roman Catholic Clergy, will not, it is hoped, be taken as implying the least reflection upon the Body, nothing being farther from the writer's intention. The world-wide established respectability of the Canadian Roman Catholic Clergy, and, indeed, his self-respect and regard for truth, must shield him from the suspicion of any such undue and unworthy purpose.

It may here be observed that the revenues arising from the Estates of the late Order of Jesuits in Canada, which upon the extinction of the Order in or about 1800, devolved upon the Crown, are, by an Act, in 1832, of the Parliament of Lower Canada, destined, very justly, to the general purposes of education. The agitation which formerly existed with respect to the Estates of the St. Sulpicians

at Montreal, whose right to the Seigniories they held, was on legal grounds denied both by the Law officers of the Crown at home and in the Province, has also been set at rest. By an Ordinance, in 1840, of the Governor General, the Right Honorable Powlett Thomson, and Special Council of Lower Canada, the St. Sulpicians are incorporated, subject to certain conditions, under the style of "*The Ecclesiastics of the Seminary of St. Sulpice of Montreal*," and confirmed in the possession of those estates, the revenues whereof are also thereby appropriated to the purposes of religion, education, and the support of poor invalids and orphans; in fact, to their original destination, and to better purposes devoted, or in better hands, they could not be.

It were folly at this time of day, and with the experience we have had, to attempt any vindication of the measures alluded to, as proposed by the Provincial Government in 1810. Most men will now consider the whole as a combination on the part of the governing against the rights of the governed and glory in its failure. There, is however, reason to believe that a very considerable portion, perhaps the great majority of the British population of that day in the Province, were of opinion that an alteration in the constitution, or suspension of it, was then necessary,—an opinion, however, which most of those who still survive would probably admit to have been premature. Mr. Ryland's policy was no doubt high handed, but there is in his correspondence, internal evidence of his sincerity, and that he believed it necessary to secure the permanent connexion of the colony with Great Britain. Time and experience, however, those sovereign teachers under providence have so far, it would seem, demonstrated the contrary, and a wiser scheme than that proposed by Sir J. H. Craig, though still far short of perfection, is

accordingly in operation, with what success remains to be seen. We have literally the entire government of our own local affairs, and if we allow or connive at misgovernment on the part of those we entrust with our interests, whom but ourselves have we to blame?

But, as previously stated, Mr. Ryland was not solitary in his views, which in fact he only partook of in common with a class determined, rightly or wrongly, to maintain an ascendancy, as long as they could, in the Government, and secure to themselves, their partisans and protégés, "the sweets of office." To do his memory but justice, however, it is certain that in various instances he patronized and encouraged native talent among those differing in language, religion and politics, from himself. A remarkable acknowledgment of this will be found in a letter to him from Bishop Plessis, which in perusing the following pages, the reader will meet with. The system so galling to all colonists, of providing them with officials from home, generally persons needy and of no account there, but who, installed in office here, become at once important personages among "the natives," is happily at an end. If native colonists are still slighted, and adventurers preferred to them for places of trust and emolument, as some vehemently contend, and possibly with reason, it is to governments chiefly of their own creation that they are obligated for the unjust and offensive preference. The British Government certainly is not to blame in the matter, the appointment of every functionary of the Civil Government in the Province, with the exception only of the Governor, and perhaps also of his private Secretary, including the Chief Justices and Judges, being now by nomination of the Provincial Administration. There are, beyond all doubt, talents of colonial growth in the Province, more than adequate to its ordinary official wants, and they are, one might reasonably think, entitled to preference.

It remains but to observe, that whatever the reader may opine of Mr. Ryland's politics, mission or correspondence, he will not fail to appreciate the liberality of his son George H. Ryland, Esq., of Montreal, who some time ago, in handing to the publisher a considerable collection of papers for his private perusal, that had appertained to his father, very obligingly gave him also leave to select from them for publication, such as he might deem interesting to the public, and illustrative of the History of Lower Canada, rightly deeming that the time had come when they might go to the world without offence to any person living. It is, therefore, to the public spirit of this gentleman, that the country is indebted for the interesting revelations in the following sheets, and which as regards his father, most men of candour will admit, abundantly prove that if he erred it was in good faith, and that his errors consequently were venial, as well as compensated by his honesty of character and integrity of purpose.

R. C.

Quebec, May, 1855.

ERRORS TO BE CORRECTED.

Page 85, line 20, for "Barthelot" read "Berthelot."

Page 97, lines 33 and 37, for "De Salabery" read "De Salaberry;" the same also in page 98, line 3.

Page 123, line 2, for "proses" read "Præses."

Page 211, line 13, for "green wood" read "Greenwood."

Page 226, line 30, for "use" read "case."

The name of Bishop "Denaut" is in several places printed erroneously "Denaud," being so in the copy.

The appendices referred to in previous volumes, are unavoidably from their bulk put off for insertion in a future volume, in which it is intended to comprise the Reports of Lord Gosford and the Commissioners with that of Lord Durham.

E. C

May, 1855.

INTERESTING
PUBLIC DOCUMENTS,
AND
OFFICIAL CORRESPONDENCE,
ILLUSTRATIVE OF THE
HISTORY OF LOWER CANADA.

EXTRACT FROM A PUBLICATION RELATIVE TO THE
AFFAIRS OF CANADA; BY BARON MAZERES.

(No date, but evidently prior to the Quebec Act, 14th Geo. 3, ch. 83.)

THINGS NECESSARY TO BE SETTLED IN THE PROVINCE OF QUEBEC, EITHER
BY THE KING'S PROCLAMATION, OR ORDER IN COUNCIL, OR BY ACT OF
PARLIAMENT.

1. Whether tithes shall be paid to the Popish Priests by compulsion of law, or only when the landowner chooses to pay them.

2. Whether, if they shall be paid by compulsion of law, they shall be paid by the Protestant landowners as well as the Popish ones.

3. If the Protestant landowners shall be compelled to pay tithes, to whom they shall pay them? whether to the Popish Parish Priests, or the King's Receiver General, or any other, and what person.

4. How the Popish Priests shall be appointed to their respective parishes: whether by the Bishop, or by the King's Governor; and whether for life, or during the pleasure of the said Bishop or Governor.

5. Whether the parishioners shall be obliged, as formerly, to keep the churches and parsonage houses in repair, and rebuild them when necessary; and whether the Protestant landowners shall be bound thereunto as well as the Popish ones.

6. Whether the Protestant landholders shall have a right to make use of the churches for the celebration of divine worship, according to the Liturgy of the Church of England, at different times of the day from those at which they are used for the celebration of the Mass, as is done in many places in Switzerland, or whether the churches shall belong solely and exclusively to the Roman Catholics.

7. And whether the Protestant landholders and other residents in the parishes may make use of the church yards to bury their dead in, or must leave them to the Roman Catholics, and bury their dead in some other place. The Roman Catholics contend for such exclusion.

8. Whether the Bishop of Quebec shall exercise all the powers of a Popish Bishop, such as that of suspending or depriving Parish Priests from their benefices, and interdicting divine worship in any church or chapel, or only some of those powers, such as ordaining Priests and confirming adult persons, and consecrating burying grounds and other places or things, to holy uses, and if he shall exercise only some of his powers, then to determine which he shall exercise, and which he shall not.

9. Whether, in the business of ordaining Priests, the Bishop shall act entirely according to his own discretion, so as to ordain as many as he shall think fit, perhaps three or four in a parish, or shall be bound to ordain only such as the Governor shall permit to be ordained.

10. Whether any Priest under the Bishop, shall exercise any spiritual or ecclesiastical authority in the Province, by the title of Grand Vicar, or any other title, or whether all the spiritual authority permitted to be exercised over the Popish Clergy, in the Province, shall be exercised only by the Bishop himself.

N.B. I was assured from good authority, that one Mr. Saint Onge, in the year 1768, interdicted divine worship in a chapel, at the Iron Mines, near Three Rivers, in the character of Grand Vicar.

11. Whether the Bishop shall not receive some written authority or license from the King, to exercise the office of Popish Bishop of Quebec, either under the great seal of Great Britain, or the public seal of the Province of Quebec, and whether his appointment to the said office of Bishop shall be for life or during the King's pleasure.

12. Whether the said Bishop shall have a Popish Bishop for his successor, or shall be succeeded by a Protestant Bishop: as it will be easy to find another method of getting new Priests ordained, by sending them to Europe for that purpose.

N. B. The presence of a Popish Bishop, in this Province, has a strong tendency to keep up the Roman Catholic religion, and to deter such Catholics as might otherwise be disposed to abandon that religion, or at least some of its doctrines, and embrace those of the Protestant religion, from doing so; they now hardly dare to do so.

Whether marriages between persons that are related to each other by blood or marriage, shall be deemed lawful or unlawful, and valid or invalid as to the civil consequences of dower and inheritance and the like, according as agreeable to the rules of the Church of England, and law of England, or according to the rules of the Church of Rome. The Church of Rome extends the prohibitions of marriage on account of consanguinity and affinity much further than the Church of England, I believe as far as fourth cousins, but at the same time gives the Bishops, and the Pope, a power of dispensing with these prohibitions where they think proper. The Bishops may dispense with them to a certain degree, but in nearer degrees of relation it is necessary to apply to the Pope.

N. B. In the year 1767, one Mr. Goudet, an elderly gentleman at Montreal, was desirous of marrying his niece, Mademoiselle Promenade, a handsome young lady of twenty years of age, and applied to the Bishop of Quebec for a license so to do. The Bishop, as I was credibly informed, earnestly dissuaded him from marrying the lady at all, as it would be an indiscreet and injurious measure, if the dispensation could be obtained; but finding him determined on the marriage, he told him he had not sufficient authority to grant him a dispensation in a case of such near consan-

guinity, but that he must apply to the Pope himself: which he accordingly did, but died before a dispensation was obtained. Now, if this dispensation had been obtained, and the marriage had taken place, it ought to be known and determined with certainty, whether the issue of such a marriage would have been legitimate, and entitled to inherit their mother's fortune, and whether the lady would have been entitled to her dower.

14. Whether it ought not to be made lawful for Justices of Peace, as well as Popish and Protestant Priests, to celebrate marriage in that Province; seeing that the Popish Priests refuse to marry a Roman Catholic to a Protestant, and the Protestant Priests are so few in number, and so remote from several parts of the Province, that it is often difficult for them to attend on such occasions, and will be more so when the Protestants shall be somewhat more numerous than they are at present. It should seem that these marriages between Protestants and Roman Catholics ought to be encouraged as much as possible.*

FROM LORD GRENVILLE TO LORD DORCHESTER.

WHITEHALL, 20th October, 1789.

MY LORD,—It having been determined to bring under the consideration of Parliament early in the next Session the propriety of making further provision for the good government of the Province of Quebec, I enclose to Your Lordship the draft of a Bill prepared for this purpose.

His Majesty's servants are desirous, before this plan shall be proposed to Parliament, to avail themselves of such observations upon it as Your Lordship's experience and local knowledge may suggest.

It is probable that Parliament may not meet till towards the end of January next, and that there will therefore be full time for me to receive Your Lordship's answer to this despatch, with such remarks as may occur to you on the

* The Roman Catholic Clergy of late years have swerved from this rule, and now marry without difficulty a Protestant to a Roman Catholic, when the parties are otherwise capable by law of contracting marriage, on condition of bringing up the offspring *catholicquement*. R. C. (1855.)

proposed Bill, and with such information as may be necessary to enable me to supply those particulars of detail which are now left in blank.

Your Lordship will observe, that the general object of this plan is *to assimilate the constitution of that Province to that of Great Britain*, as nearly as the difference arising from the manners of the people, and from the present situation of the Province will admit.

In doing this, a considerable degree of attention is due to the prejudices and habits of the French inhabitants who compose so large a proportion of the community, and every degree of caution should be used to continue to them the enjoyment of those civil and religious rights which were secured to them by the capitulation of the Province, or have since been granted by the liberal and enlightened spirit of the British Government.

This consideration has had a great degree of weight in the adoption of a plan of dividing the Province of Quebec into two districts, which are to remain, as at present, under the administration of a Governor General, but are each to have a Lieutenant Governor, and a separate legislature.

The King's servants have not overlooked the reasons urged by your Lordship *against such a separation*, and they feel that while Canada remained under its present form of Government, great weight would have been due to those suggestions, but when the resolution was taken of establishing a Provincial Legislature to be constituted in the manner now proposed, and to be chosen in part by the people, every consideration of policy seemed to render it desirable that the great preponderance possessed in the upper districts by the King's ancient subjects, and in the lower, by the French Canadians, should have their effect and operation in separate legislatures, rather than that these two bodies of people should be blended together in the first formation of the new constitution, and before sufficient time has been allowed for the removal of ancient prejudices by the habit of obedience to the same government, and by the sense of a common interest.

With respect to the intended boundaries of the Provinces, a blank is left in the Bill, in order that Your Lordship may, with the assistance of the Surveyor General who is now at

Quebec, consider of such a description of those boundaries as may be sufficiently intelligible and certain, so as to leave no room for future difficulties on that subject.

The division between the two Provinces is meant to be the same as is mentioned to Your Lordship in Lord Sydney's letter of 3rd September, 1788, with the alteration suggested by Your Lordship in your letter of 8th November, 1788.

There will, however, be a considerable difficulty in the mode of describing the boundary between the district of Upper Canada and the territories of the United States, as the adhering to the line mentioned in the treaty with America would exclude the posts which are still in His Majesty's possession, and which the infraction of the treaty on the part of America has induced His Majesty to retain, while on the other hand, the including them by express words within the limits to be established for the Province by an Act of the British Parliament, would probably excite a considerable degree of resentment among the inhabitants of the United States, and might perhaps provoke them to measures detrimental to our commercial interests.

Possibly, the best solution for this difficulty might be to describe the upper district by some general words, such as, all the territories, &c., &c., possessed by and subject to His Majesty, and being to the west or south-west of the boundary line of Lower Canada, except such as are included within the present boundaries of the Government of New Brunswick.

In settling this point of the boundaries, it will also be a question whether the fishing settlement in Gaspé may not with advantage be annexed to the Government of New Brunswick, rather than to be left as a part of that of Lower Canada, under the system now proposed to be established, particularly as the local circumstances of that district might render a representation of it, in an assembly at Quebec, extremely difficult, if not impracticable.

The Legislature, in each of the two Provinces, is intended, as Your Lordship will observe from the draft of the Bill, to consist of His Majesty, represented by his Governor or Lieutenant Governor, a Legislative Council, and a House of Assembly.

It is intended to separate the Legislative from the Executive Council, and to give to the members of the former a right to hold their seats during their life and good behaviour, provided they do not reside out of the Province, or attach themselves by any oath of allegiance or obedience to the United States, or to any other Foreign power.

It is the King's further intention to confer upon the persons whom he shall distinguish by calling them to his Legislative Council, some mark of honor, such as a Provincial Baronetage, either personal to themselves or descendible to their eldest sons in lineal succession.

A great accession of wealth to the Provinces might probably induce His Majesty, at a future period, to raise the most considerable of these persons to a higher degree of honor; but this could certainly not be done with propriety, under the present circumstances.

The object of these regulations is both to give to the upper branch of the Legislature a greater degree of weight and consequence than was possessed by the Councils in the old Colonial Governments, and to establish in the Provinces a body of men having that motive of attachment to the existing form of Government which arises from the possession of personal or hereditary distinctions.

It will be very necessary that great attention should be paid to the choice of those persons who are to be placed in this situation in the first instance, and of those whom His Majesty may be advised from time to time to add to that number, and as Your Lordship's long knowledge of the Province, and of the individuals who compose the higher classes of the community, must render Your Lordship more particularly competent to such a selection, I must desire that Your Lordship will consider this point with that degree of attention to which its importance entitles it, and that you will state to me the names of those persons whom you may think fit objects of the King's favor in this respect, in each of the two Provinces intended to be formed.

In the draft of the Bill which I enclose, a blank is left for that which is to be fixed as the smallest number of which the Councils are respectively to be composed. It is certainly desirable, that this number should not be made too large in the first instance, as it would be easy for His

Majesty to add to it, wherever it may be found expedient, while on the other hand, the calling improper persons to the Councils, in order to make up the number required by the Bill, would, under the system now proposed, be productive of permanent inconvenience and mischief to His Majesty's Government.

Of this point also, Your Lordship must unquestionably be the best judge, and I shall be anxious to learn your sentiments upon it. My present idea, founded, however, rather on conjecture than on any satisfactory information, would be that the Legislative Council in Upper Canada should not consist of less than six members, and in Lower Canada of not less than twelve; and that the selection of these persons should be made with a view to increasing the number by some addition, at no very distant period, as a mark of His Majesty's favor to those persons whose conduct may be found to entitle them to it.

Your Lordship will also state to me for His Majesty's information, the number and names of those persons whom you may think proper to recommend to His Majesty for seats in the Executive Council. It is by no means intended that the members of the Legislative Council should be excluded from this body, or that it should on the other hand be wholly composed of persons of this description. It may be advisable that some of the persons named to the Executive Council, in one of the districts, should also be admitted to the same distinction in the other. In providing for the establishment of a House of Assembly in each of the Provinces, the first question of detail which occurs is that of the numbers of which these bodies should consist, and of the manner in which they should be elected, particularly with respect to the division of the Provinces into Counties or Districts, and to the relative proportion of representation to be allowed to the Towns.

The decision of these points must necessarily depend on local knowledge. They are therefore left in blank in the draft of the Bill, and I must desire Your Lordship's opinion upon them. I am not sufficiently informed whether the present division of the Counties would be well adapted to the object in question, or whether a subdivision into Parishes or Districts would be more desirable.

I enclose, for Your Lordship's information, a paper delivered to me by Mr. Lymburner, containing a plan of representation for the Province; but as far as I am at all enabled to form an opinion on the subject, that plan appears to me to be liable to great objection. I also transmit a plan for the same purport, framed by the Board of Trade in 1765.

The next point to be considered is the qualifications of the electors and of the persons to be elected in each of the Provinces. This is also in great measure a point of local detail, depending on the condition and circumstances of the different classes of the inhabitants of the Provinces, and on which His Majesty's servants are therefore desirous of receiving Your Lordship's opinion. In the margin of the Bill, which I now transmit, I have marked the suggestions which have been made to me on this subject, but I do not feel myself enabled, without further information, to form any satisfactory opinion upon them.

The remaining clauses of the Bill do not seem to require much particular discussion in this letter; Your Lordship will observe by the twenty-seventh clause, that it is intended to continue all the existing laws of the Province, until they shall be repealed or varied by the Legislatures of the respective Provinces. An exception is, however, made, and there is a clause left in blank for the insertion of such commercial regulations, if any, which it may be thought expedient to introduce, as exceptions to the Canadian laws, respecting property and civil rights, previous to investing the Assembly at Lower Canada with a right to negative all future changes which may be proposed.

This is a point which is now under the consideration of His Majesty's Law servants, but as it is probable that I shall receive Your Lordship's answer to this despatch, before it may be necessary to come to a final decision on this subject, I shall be glad to be furnished with any suggestions which may occur to Your Lordship upon it, as likely to conduce to the advancement and security of the commercial interests of this Kingdom, and that of the Provinces as connected with it.

The clause enabling persons to commute the holding of their lands into free and common soccage is in conformity

to what Your Lordship has recommended with respect to the upper districts, and it seems a measure of good policy to extend the same principle to the lower parts of the Province as far as the prejudices of the French inhabitants will allow.

I should wish to know Your Lordship's sentiments with respect to the time which might be most convenient for the commencement of this new system, supposing the Bill to be passed in the next Session of Parliament.

I am, with great truth and regard, &c., &c.

(Signed,) W. W. G.

EXTRACT FROM THE DUKE OF PORTLAND'S LETTER TO
MR. PRESIDENT RUSSELL, RESPECTING THE SELEC-
TION OF YORK AS THE SEAT OF GOVERNMENT.

WHITEHALL, 11th Sept., 1797.

SIR,—I have laid before the King your letters numbered 8 and 9, with one of the 26th of February last.

With respect to that relative to the building of churches in the town you mention, and the granting of a salary to the Reverend Mr. Addison, whose character, independently of the representations made in his favour by the Magistrates at their Quarter Sessions, is well entitled to the attention of Government, I refer you to my letter to Major General Simcoe of the 23rd of June last, a copy of which I now enclose. You will perceive by that letter and by the enclosed estimate of Upper Canada for the present year, that £400 is appropriated for the salary of four Clergymen, in which number Mr. Addison is supposed to be included, and that £500 was granted in the year 1795, and the like sum in 1796, towards building churches in Upper Canada.

Whether the whole or what part of that sum has been expended, or what churches have been built in consequence thereof, I am not informed. But I must add that His Majesty will always be ready to give every assistance and encouragement to His Province of Upper Canada, in making due provision for its church establishments.

The selection of York for the capital of the Province was made upon the most mature reflection. I therefore trust that the removal to it will neither have been so sudden nor so unforeseen as to have occasioned any material impediment to the due course of the administration of Justice, as that is a circumstance which should be particularly guarded against. In consequence of your representation of the necessity of a small armed vessel being immediately built at Toronto, to be entirely under the order of the Civil Governor, for the purpose you mention, you are hereby authorised to build and employ such a vessel, taking care that the same is done in the most economical manner.

PROPOSAL FOR RAISING A SUM TO AID IN CARRYING
ON THE WAR, BY AN ACT OF THE PROVINCIAL
LEGISLATURE.

(Refused by General Prescott, 1798.)

STATEMENT.

(8th June, 1798.)

Upon the arrival of the intelligence respecting the voluntary gifts made in England to assist His Majesty in carrying on the present war, some of the leading members of the House of Assembly, then sitting, conceived it highly proper to levy the sum of £20,000 sterling, either by a tax on all goods, wares and merchandizes to be imported into the Province during this year, or by some other tax, if that should be exceptionable, and to apply it as a voluntary gift to His Majesty from the Province, for the above purpose. Mr. Young of the Executive Council, the Attorney General and Mr. Grant, were the members above alluded to, and it was proposed by them to present, with the Act for raising the above sum, an Address from the House of Assembly to His Majesty, both loyal and firm, declaratory of the attachment of the inhabitants of the Province to His Majesty's Government, their determination to defend it with their lives and property, and their readi-

ness to tax themselves, whenever it might be necessary for the support of Great Britain, notwithstanding the Act 18 Geo. III. cap. 12.

Upon consulting their friends in the House, the above members found the measure very practicable, but as they thought they ought not to proceed until they had made His Majesty's representative, General Prescott, acquainted with their intention, it was determined that the Attorney General should wait upon him for that purpose. The Attorney General accordingly waited on the General on the 2nd of May, told him what is above stated, the mode by which it was proposed to raise the above sum of £20,000, adding, however, that if that mode was thought exceptionable, they had no objection to adopt any other mode of levying the sum, and that there being no tax of any weight existing in the country, except on wines and spirituous liquors, there was a great variety of objects, on which the proposed sum might be raised without the smallest difficulty, for that he and his friends were well convinced, that the measures intended, would be adopted by the House of Assembly, unanimously. The General answered, that the measure proposed was important, that he could not be supposed prepared to give an answer immediately, but would give one in writing, before 10 o'clock the next day. The same day, however, about 9 o'clock in the forenoon, Mr. Ryland, the Governor's Secretary, called on the Attorney General, with the following verbal message from His Excellency.

"The Governor has considered the proposition you made to him this morning of raising £20,000 by an Act of the Provincial Parliament, to be applied to the service of Great Britain, and he has desired me to inform you he does not think it expedient to encourage the measure."

MEMORIAL TO THE DUKE OF PORTLAND, BY SIX
MEMBERS OF COUNCIL.

*To the High and Mighty Prince William Henry, Duke of Portland,
Marquis of Titchfield, Chancellor of the University of Oxford,
Lord Lieutenant and Custos Rotulorum of the County of Nottingham,
Knight Companion of the Most Noble Order of the Garter,
one of His Majesty's Principal Secretaries of State, &c., &c., &c.*

THE MEMORIAL OF THE UNDERSIGNED MEMBERS OF
THE EXECUTIVE COUNCIL OF HIS MAJESTY'S PRO-
VINCE OF LOWER CANADA.

MOST RESPECTFULLY SHEWETH :—

That in obedience to an order of reference from His Excellency the Governor of this Province, respecting the waste lands of the Crown, a Committee of the whole Council made their unanimous Report, bearing date the 20th June last.

That a second order of reference being made to the said Committee on the same subject, they delivered a second Report, bearing date the 9th day of August last.

That on the 20th of September last a Council was held, at which His Excellency laid the said second Report before the Board, with the remarks he had made thereon in writing, which were referred to their consideration in a paper, the tenor whereof is stated in the appendix to this memorial, marked with the letter A.*

That to their great surprise and regret, the Board, having observed that a pamphlet had been published in the City of Quebec, entitled, "Extract from the minutes of Council, containing His Majesty's late regulations relative to the waste lands of the Crown, with His Excellency the Governor General's reference respecting the same, to a Committee of the whole Council of the Province of Lower Canada, the said Committee's report thereon, and His Excellency's speech in reply," authenticated by a certificate from the acting Clerk of the Council, a copy whereof, marked with the letter B, accompanies this memorial, they thought it their duty to make to His Excellency the answer contained in the appendix marked with the letter C.

* The documents alluded to are not in the publisher's possession. R. C.

That finding the remarks made by His Excellency on their first and second Reports, contained many imputations injurious to their character, they felt themselves under the necessity of framing an address to His Excellency, a copy whereof, marked with the letter D, is hereunto annexed.

That on Tuesday last, the 23rd of October, a Board of Council was held, at which the Collectors' accounts were passed, when the acting Clerk of the Council made an apology for not having been able to transcribe the proceedings pending respecting land matters, and his excuse being admitted by His Excellency, nothing further was said on the subject.

That to their very great astonishment a second publication took place on Tuesday last, entitled, "a continuation of the extract of the 11th of June," purporting to be authenticated by the acting Clerk of the Council, a copy whereof, marked with the letter E, accompanies this memorial. This pamphlet, in page 53, contains His Excellency's final orders on the subject which has not yet been made in Council, and which each of the undersigned do most solemnly aver was unknown to them, until they were first apprized thereof by the said pamphlet.

That upon comparing the Council Book, since the publication alluded to, with the original documents delivered in with the Report, they find that the same is incorrect, that the entries in the Council Book are incomplete, and in particular that the answer of the Board already referred to, marked with the letter C, is altogether omitted, and the passage underlined in page 53 is introduced in its stead.

That independently of the scandal of making these matters public, which to this day have not been communicated to His Majesty's Executive Council, the Council Book and pamphlet contain a false suggestion by stating that the Chief Justice, in the name and on the behalf of the members present, advised that the same be entered inasmuch as the question was not discussed or even mentioned at the Board—the paper marked A was communicated, to which the written answer marked C was given in since which nothing further has passed on the subject. Finally, that the undersigned are deeply afflicted at being constrained to represent to Your Grace, proceedings

injurious to themselves, and so disreputable to orderly government, and therefore they implore such relief as through Your Grace's mediation, His Majesty may be graciously pleased to bestow.

Quebec, 27th October, 1798.

(Signed,)

WM. OSGOODE,
J. QUEBEC,
HUGH FINLAY,
FRANCIS BABY,
THOMAS DUNN,
JOHN YOUNG.

MEMORIAL TO THE DUKE OF PORTLAND, BY MEMBERS
OF THE EXECUTIVE COUNCIL OF LOWER CANADA,
COMPLAINING OF GOVERNOR PRESCOTT.

*To the High and Mighty Prince William Henry, Duke of Portland,
Marquis of Titchfield, Chancellor of the University of Oxford,
Lord Lieutenant and Custos Rotulorum of the County of Nottingham,
Knight Companion of the Most Noble Order of the Garter,
one of His Majesty's Principal Secretaries of State, &c., &c., &c.*

THE MEMORIAL OF THE UNDERSIGNED MEMBERS OF
THE EXECUTIVE COUNCIL OF HIS MAJESTY'S PRO-
VINCE OF LOWER CANADA.

MOST RESPECTFULLY SHEWETH :—

That with the utmost reluctance they are again compelled to address Your Grace on the repeated grievances they continue to suffer in the discharge of their duty to His Majesty.

That by an entry in the Council Books, bearing date the 22nd day of December last, a copy whereof is hereunto subjoined, marked with the letter A, Your Grace may observe, that His Excellency the Governor of this Province not only assumes to himself an arbitrary power with which the undersigned humbly conceive he is not vested, but that he has also thought proper to bring forward vague and general charges against His Majesty's Executive Council, of a nature so heinous that had they been urged by any

private individual, would have rendered him amenable to the Courts of Criminal Jurisdiction.

That the members of His Majesty's Executive Council of this Province having already been charged in the Council Books, and printed pamphlets, with deceitfulness and falsehood, Your Grace may perceive they now stand accused in the Council Books, and in all probability, before this respectful memorial shall be presented to Your Grace, they will be accused in printed pamphlets of a conduct amounting by fair construction, as they apprehend, to a charge of foul practices, corrupt motives, and dishonesty.

That although they have thought it their duty, in vindication of their privileges, to submit to His Excellency certain observations, a copy whereof, marked with the letter B, is hereunto subjoined, and which at present His Excellency reserves to determine whether they shall or shall not be entered on the minutes; yet they have refrained from noticing the charges by which their integrity is arraigned, under the firm persuasion that their disavowal would not be recorded, or that it would subject them to an accumulation of repeated contumely.

That when it is observed by Your Grace, that the parties involved in this charge are persons supposed to have been selected by His Majesty on account of their probity and experience, to assist his representative with their counsel, and that it includes both those who are called to superintend the spiritual concerns, and those who are entrusted with the administration of justice to His Majesty's subjects in this Province, Your Grace will certainly deem it necessary that so heavy an accusation should forthwith be supported or repelled.

That should Your Grace be of opinion there is even a shadow of suspicion against the Executive Council, the undersigned most humbly and anxiously request that His Majesty will graciously be pleased to direct such enquiry to be instituted into their conduct, as in his Royal wisdom may seem meet; but should the accusation in Your Grace's judgment appear to be groundless, the earnest entreaty of the undersigned is, that through Your Grace's mediation, His Majesty may be graciously pleased to give them effectual relief against the continuance of such intolerable

calumny, and, in vindication of their character to posterity, to order this their respectful memorial to be inserted in the Books of the Executive Council.

Quebec, 9th January, 1799.

(Signed,)

WM. OSGOODE.
J. QUEBEC.
HUGH FINLAY.
F. BABY.
THOMAS DUNN.
JOHN YOUNG.

APPENDIX (A.)

EXTRACT FROM THE MINUTES OF COUNCIL OF 22ND DECEMBER, 1798.

Upon reading the minute of the former proceedings, it being observed that the written answer given in by the Board on the 22nd of September last, to the written paper referred to them by His Excellency, on the 20th of September, is omitted. The Chief Justice, in the name of the members assembled at the said Board, humbly moves His Excellency that the said written answer be inserted in the minutes.

His Excellency observed in reply that he could not for his own part discover any good purpose that could be answered by entering the paper alluded to in the motion. He had indeed conceived that the intemperate manner in which it was drawn up, (even were there nothing else,) would have prevented any member of His Majesty's Council from wishing to see it on the records of the Board.

The paper alluded to did not perfectly correspond with the definition contained in the prefatory part of the motion. No written paper had been referred by His Excellency on the 20th of September last, for an answer on the part of the Board, in the manner which the prefatory part of the motion would seem to imply. The only thing that was on that day submitted by His Excellency for the consideration of the Board, was whether, after what he had

expressly declared in the minute, it was the opinion of the Board, that the Report of the Committee of the 9th of August, and the Governor's remarks thereon should be put on a special file to be open only to the Governor and the members of the Council, or to be entered in the Books which, by an old order of the Board perfectly conformable to His Majesty's Royal Instructions, were declared to be open for the information of all persons concerned.

Had His Excellency been apprized that such a motion was intended to be made he would have been more fully prepared on the occasion. It happened, however, that he had in his pocket the paper alluded to ; together likewise with a brief memorandum of some of the reflections that had occurred to his mind on his reading it in September last, and by which he was then induced not to direct it to be entered with the rest of the proceedings.

The gentleman who brought forward the motion had fallen into a great mistake in that part of his introductory observations wherein he supposed that the Governor had departed from an established practice, and had exercised an unauthorized and unusual discretion in omitting to direct the entering of the paper alluded to. Had the honorable gentleman taken the trouble to inform himself, he would have found that the Governors of this Province (and probably of His Majesty's other Provinces also) had always, at least whenever they thought proper, exercised the *sole* power of directing what papers should or should not be entered on the minutes. He might easily have found instances in which Reports that the members had been called upon to draw up, had been laid before the Board, and ordered at once to be put on the files, without submitting to the consideration of the Board, whether they should or should not be entered ; and His Excellency cannot but think it exceedingly probable that the Board may hereafter consider the motion which the honorable gentleman brought forward on the 9th of July last for preventing the same steps from being followed in the late instances, not to have been well judged. So much of the paper alluded to in the present motion, as contained the answer to the question submitted to the consideration of the Board, had been entered. Further than this His Excellency had not

conceived to be either necessary or proper, particularly as it appeared to him to be more likely to increase that disesteem in which the proceedings of the Board were then already held than to remove it. His Excellency was desirous that that disesteem should be removed; he was by no means voluntarily disposed to give an order that appeared to him to have a tendency to increase it.

If, however, the members of the Board entertained a contrary opinion, and were desirous of having the paper entered at large, His Excellency would certainly comply with their wishes in that respect, rather than suffer it to be for a moment supposed that he was actuated by any improper motive in refusing it a place on the records. But if entered, the considerations which had induced him to omit ordering it to be entered before must of course be entered with it.

His Excellency then handed to the Clerk the paper alluded to in the motion, together likewise with the aforementioned memorandum, which were read at the Board.

Ordered by His Excellency, on the motion of the Board, that the said paper, together with His Excellency's observations thereon, be entered on the minutes.

*Here follows the opinion and advice of the Council, dated the 20th September, 1798.

Memoranda of reflections which occurred to the Governor's mind on reading (23rd September, 1798) the paper signed by the Chief Justice, dated the 20th, and delivered on the 22nd instant, (September,) denominated the "opinion and advice of the members present," containing the answer to the question submitted to the Board, whether the Report of the Committee of the 9th of August, and the Governor's remarks thereon should be put on a *special file* or be *entered* on the minutes?

The Governor having left it to the option of the Board, whether the Report of the Committee, and his remarks thereon, should be put on a *special file* or be *entered* on the minutes, he is of course bound by his word so given, to order whichever of the two they might choose to advise.

The Governor having expressly declared in the minute,

* This is the paper marked C., sent by the Andromeda.

that whatever papers were entered on the records, relative to the granting of the waste lands, should be open for the information of the parties concerned, conformably to the spirit and meaning of His Majesty's Royal Instructions, and to the old standing orders of the Board thereon. It seems impossible to consider the paper signed by the Chief Justice, containing the present advice, in any other light than as an imperious attempt to dictate to the Governor, daring him to exercise any judgment of his own in regard to the meaning of his instructions from the King, or the construction heretofore put thereon by the Executive Government of this Province, as contained in the former proceedings of the Board. Such imperiousness merits no notice.

The argument now set up, "That the order cited (meaning the 38th Article of His Majesty's Royal Instructions) "is confined to *the Royal Instructions merely*, without "extending to the proceedings had thereon," is fallacious in the extreme. Such a construction would defeat every end for which that order was graciously intended. The minutes of the 20th instant, (September,) and the 20th Article of the Governor's remarks on the Report of the Committee contain a complete refutation of the principle on which the argument is founded. The instance hypothetically supposed in the paper, by way of elucidating the above argument, to wit: "That the Royal Instructions "respecting the waste lands might, at the option of the "Governor, have been entered on the State Book, and that "by the same mode of reasoning, the contents of the State "Book would become liable to be equally open to the "public," is just as fallacious as the argument which it is intended to support. Were the premises admitted, they would not, (preposterous as they are,) support the conclusion pretended to follow from them. It would by no means follow, even from the admission of those preposterous premises, that the *contents of the State Book* should be open to the public. It would only follow that *such of the entries therein as contained the Royal Instructions relative to the waste lands and the proceedings appertaining thereto*, should be open to the public. The preposterousness and absurdity of entering these in the same books with the

matters of State would be evident to every body ; and for this very reason were they entered in separate books.

If any doubt could be entertained, whether the books containing the entries of the proceedings relative to the granting of the waste lands were or were not intended by the Executive Government of this Province to be open for the information and satisfaction of all parties concerned, such doubt would be at once cleared up by the entry contained in the minutes of the 21st of January, 1793, ordering an advertisement to be published (and which was accordingly published) in the Gazette, under the signature of the Clerk of the Board, in the following words :

“ COUNCIL OFFICE, LOWER CANADA,
“ *21st January, 1793.*

“ Final orders remaining to be taken by His Excellency
“ the Governor, and the Executive Council, for reasons
“ inserted in the minutes of the Board upon certain petitions for grants of parcels of the waste lands of the Crown,
“ all petitioners for lands in this Province are hereby
“ notified that the minutes are open for daily inspection,
“ between the hours of *ten and three.*”

It is perfectly evident from the above mentioned advertisement, as well as from the actual practice which prevailed both before and after, of giving copies of the entries to such as desired them, that the records of the proceedings relative to the granting of the waste lands were considered in the same light as other public records, open for the information and satisfaction of all persons concerned. If any Reports or other papers appeared improper or unnecessary to be generally known, they were at that time put on the files, without being entered on the minutes. At that time, although the proceedings were not indeed entirely free from accidental irregularities and temporary mistakes, and although the system of proceeding was not perfectly digested, yet there appears to have been a fairness and uprightness of intention. It is much to be lamented that fairness and uprightness should have ever given place to a contrary disposition. But the truth is, that after a number of the old applicants and their associates had, in consequence

of the encouragement given them by the Executive Government for that purpose, embarked their labour and property in the settlement and cultivation of the townships they petitioned for, and had thereby transformed them from a wilderness into a state of habitation, plans were pursued as mentioned in the 15th Article of the Governor's remarks on the Report of the Committee for obtaining grants thereof to the behoof of other persons. Can it be from the influence of persons unconcerned in these plans, that pretended objections have been devised against the filing of such papers as might be considered improper or unnecessary to be generally known, and against the minutes being open for the information of the parties concerned, as formerly? Be this as it may, the Governor is unable to trace the existence of such objections further back than the last mentioned period: and should such be the cause from whence they originated, it is indispensably necessary for the preservation of the sacred honor, dignity and good faith of His Majesty's Government, that such pretended objections should be resisted with firmness and inflexibility.

Whatever impropriety there might or might not be in the parties having caused the late proceedings to be printed, it was owing altogether to their being entered on the minutes, which were declared by a public advertisement from the Council Office to be open to all persons concerned. If the Board did not choose that those proceedings should be generally known, it was preposterous in them to advise, contrary to the express desire of the Governor, that they should be entered on the records which had been so publicly declared by the Executive Government to be open for the information of all parties interested.

No reproach can on that account attach to His Majesty's Government: on the contrary, the honor and good faith of His Majesty's Government must thereby become more conspicuous. Any disgrace that can in possibility attend it, can extend no further than merely to such individuals (if any such there be) who might be disposed to trifle with His Majesty's sacred honor and good faith, by *resolving* and *rescinding those resolves* at pleasure, to the ruin of the parties that had confided in them, and had embarked their labour and property in that confidence.

It is painful to observe, among other things, that some (although it is willingly hoped not many) of the gentlemen who are desirous of having it supposed that they are greatly concerned for the honor and interest of His Majesty's Government, and that their advice is salutary, and ought always to be adhered to, have in some instances, either with or without mature consideration (even in the same Committees, and the same days) drawn up and signed different Reports, diametrically contrary the one to the other, upon matters that were as unalterably and inseparably connected with each other as the *sun* and the *light* are connected; and have afterwards advised their Governor to confirm both the one and the other of those contradictory Reports. Although the Governor cannot admire the epithets ("*scandalous*" and "*disgraceful*") made use of in the paper before him, yet he cannot consider such proceedings as these to be very *honorable*, nor can he very readily admit those who were the most immediately concerned in making such Reports, and giving such advice, could in reality feel so much concern for the honor and interest of His Majesty's Government as might be wished.

It might perhaps be a desirable thing that such inconsistent proceedings should not be exposed, if it could by any rational means be avoided; but it is utterly impossible to avoid it by any ways or means whatever, either *rational* or *irrational*. Even were the records to be shut against the applicants, in violation of the solemn order heretofore published by the Executive Government, such a measure (derogatory as it would evidently be to every principle of honor and public faith) could have no effect towards preventing the abovementioned proceedings from being known. They are in fact known already, and have been known for several years. They were read with astonishment several hundred miles from this Province, within a very few months after they took place, (particularly those that were laid before the Board from August, 1795, to January, 1796,) and they still continue to be read, although perhaps with somewhat less astonishment than at the first. Any Governmental measures, therefore, for preventing the former proceedings from being known, could only reflect dishonor on the

Government, without answering any other end or purpose whatsoever.

The Governor was desirous that the errors into which the Committee had run in their late report should not be exposed; and he therefore proposed the putting of the Report and his remarks thereon upon a special file, as defined in the minute. The members disapprove of his proposal and advise that the same be entered; let them, therefore, be entered on the records of the Board: the distinction pretended to be made between the terms "*entered*" and "*entered of record*," if such a distinction can have any meaning at all, it cannot be a good one. A Governor is not to be dictated to with imperiousness upon insignificant and unmeaning distinctions.

Were the paper signed by the Chief Justice, containing the advice of the Board on the present occasion, to be entered at large on the minutes, the intemperate manner in which it is drawn up, as well as the erroneous positions therein contained, would reflect additional dishonor on the proceedings of the Council. This is certainly best to be avoided, as far as it can be done without breaking through the rules heretofore established by the Executive Government. It will be fully sufficient (and much more indeed than might have been wished) to express in the minute the advice of the Board in general terms, that the Report of the Committee and the Governor's remarks thereon be so entered.

The advice having been delivered by the Chief Justice, in the name and on the behalf of the members present, let the minute conclude as follows:

"His Excellency then laid the Report, together with the remarks he had made thereon in writing, before the Board, which being read and considered, the Chief Justice, in the name and on the behalf of the members present, advised that the same be entered; and His Excellency, having given his word in manner before mentioned, ordered the same be entered of record accordingly."

A true extract,

(Signed,)

THOS. CARY,

A. C. Ex. C.

APPENDIX (B.)

The minutes of the proceedings of the last Council being read, it appears to the members of the Board that the observations stated to have been made by His Excellency in reply, are in their manner somewhat irregular, and in their matter not entirely founded.

The Board apprehend it to be irregular to make written comments on any observations orally delivered by a member sitting in his place. For this obvious reason, because the minutes are framed to the intent of conveying authentic and unquestionable information to His Majesty of the proceedings of his Executive Council. But without reference to the present case, verbal observations are liable to be misconceived by His Majesty's representative, or to be denied by the party to whom they are imputed, whereas written observations are not liable to such impeachment.

It further appears to the Board that the position asserted by His Excellency, that the Governors of this Province had always, at least whenever they thought proper, exercised the *sole power* of directing what papers should or should not be entered on the minutes, is not only novel, but tends to subvert the freedom and privileges necessarily incident to every deliberative body. They are not apprized of the instances alluded to by His Excellency; and though frequent precedents were produced they would still contest the principle as being repugnant to fairness, to policy, and to the obvious ends of their Institution. They avow a responsibility to His Majesty under the solemn and sacred obligation of an oath; but cannot imagine that any person of common discretion would knowingly subject himself to responsibility for his conduct, and at the same time be debarred from the privilege of explaining his motives. They humbly conceive that the spirit of British Polity, whether domestic or colonial, does in no case exact such unreasonable conditions from persons who engage in civil duties.

The members present at the Board will always receive with the most submissive deference whatever observations His Excellency may be pleased to make in answer to their written opinions, without presuming to reply; but they

should hold themselves most culpably neglectful of their privileges, if they omitted respectfully to apprise His Excellency that they do not concur in the position that the Governors of this Province had always the sole power of directing what papers should or should not be entered on the minutes.

The members present have authorized the Chief Justice to submit these observations to Your Excellency, and directed him humbly to move that they be inserted in the minutes.

Quebec, 5th January, 1799.

FROM THE LORD BISHOP OF QUEBEC, RESPECTING THE
STATE OF PUBLIC EDUCATION IN LOWER CANADA,
TO SIR R. S. MILNES.

QUEBEC, 19th October, 1799.

SIR,—There is so intimate and obvious a connection between the education of youth, and the general state of public morals, that I trust I shall not be thought to deviate from the duties that are more particularly assigned to me, if I presume to solicit Your Excellency's attention to the disadvantages under which this Province has long laboured, from the want of proper schools, for the instruction of the children both of the higher and of the lower orders of the community.

In doing this, it is by no means my intention to enter into the examination of these disadvantages, so far as they are common to us with every other society which is without proper institutions for the education of youth. I shall take the liberty of mentioning such only as appear to be in a great measure peculiar to ourselves.

Let me be permitted, then, to suggest the danger which may result to the political principles, and to the future character, as subjects, of such of our young men, among the higher ranks, as the exigency of the case obliges their parents to send, for a classical education, to the Colleges of the United States.

In these Seminaries, most assuredly, they are not likely to imbibe that attachment to our constitution in church

and state, that veneration for the government of their country, and that loyalty to their king, to which it is so peculiarly necessary, in the present times, to give all the advantage of early predilection, in order to fix them deeply both in the understanding and the heart.

To obviate this danger, it would seem expedient to found at least one good Grammar School in this Province; and to invite able masters from England, by the liberality of the endowment.

It may not be improper to state here, that there is already at Quebec a respectable school which offers the means of instruction to those who are designed for the more active professions, or for the pursuits of trade and commerce, in which, together with the lower branches of education, are taught the Latin language, Mathematics and Navigation, by a master well qualified for the task he has undertaken. I would wish to suggest the expediency of insuring the continuance of this advantage, (which has not hitherto been duly appreciated,) by some mark of the protection of Government.

But it is not only good Grammar Schools, for the education of such young men as are designed for the learned professions, or who, from their rank in society may hereafter fill situations of great political importance in the Province, that are wanted,—a more humble, but a not less important branch of the community, seems to call also for Your Excellency's benevolent attention.

It is well known that the lower orders of the people in this Province are, for the most part deplorably ignorant; that the very slender portion of instruction which their children obtain, is almost entirely confined, amongst those who do not live in the towns, to the girls alone; and more especially, it is notorious that they have hitherto made no progress towards the attainment of the language of the country under whose government they have the happiness to live.

This total ignorance of the English language, on the part of the Canadians, draws a distinct line of demarcation between them and His Majesty's British subjects in this Province, injurious to the welfare and happiness of both; and continues to divide into two separate people, those who

by their situation, their common interests, and their equal participation of the same laws, and the same form of government, should naturally form but one.

If the evils are confessedly great which arise from this want of community of language, it should seem expedient to endeavour to provide an immediate remedy for the defect, and it should also seem, that this can only be done, by facilitating, as much as possible, the means of acquiring the English language to the children of the Canadians.

The plan which I would beg leave to submit for this purpose, is simple, and I trust practicable; its aim may appear to be humble, but its effects, I am persuaded, would be in a high degree beneficial and important. It is briefly this:—that a certain number of English school masters, to be hereafter determined, should be employed, and paid by Government,—that one of these should be placed in each of the cities and towns, and in the most considerable villages, for the purpose, and under the express obligation of teaching the English language *gratis*, to a certain number of the Canadian children; and writing and arithmetic, when required, at an easy rate: that Trustees, or commissioners should be appointed, to manage the fund which Government, in its bounty, may see fit to appropriate to this end,—to determine the number of masters that may be requisite, their respective salaries, and the number of children they shall respectively teach *gratis*; to fix the rate at which writing and arithmetic shall be taught, &c., and to have the power of removing the masters for incapacity or neglect of duty, and of promoting them successively to the more lucrative situations, for able and meritorious conduct.

I would barely hint, by way of a leading idea upon this subject, that the salaries might perhaps extend from £20 to £60 per annum, according to the number of inhabitants in the village, town, or city in which the teacher should be placed; and that it might, perhaps, not improperly be a condition, that he who received a payment of £20 should be obliged to teach English *gratis* to ten Canadian children, he who received £30, to fifteen children, and so in proportion.

The importance and extent of this subject demand, I am well aware, more local information, and better judgment

than I have been able to apply to it. I presume only to suggest it, as an object not unworthy of immediate consideration to Your Excellency's superior wisdom.

I have the honor to be, Sir,

With the greatest deference and respect,
Your Excellency's most obedient and
most humble servant,

J. QUEBEC.

To His Excellency R. S. Milnes, Esq.,
&c., &c., &c.

ST. SULPICIAN ESTATES, REVENUE AND EXPENDITURE.
REPOSE AUX QUESTIONS PROPOSEES.

On demande 1o. Quelles ont été les rentes et le casuel des seigneuries qui appartiennent au Séminaire de Montréal, depuis l'année 1795 :

1795.

<i>Rentes et Lods.</i>	<i>Argent du Canada.</i>	
	frs.	s.
Dans la ville de Montréal.....	11,041	6
Dans les faubourgs.....	1,046	5
Dans les villages de la Pointe Claire.....	106	0
Dans les villages de la Pointe aux Trembles.....	24	0
Dans l'Isle de Montréal, en argent.....	15,112	2
Au Lac des Deux Montagnes, en argent.....	1,077	12
A St. Sulpice et au village de l'Assomption, en argent..	5,709	0
Dans les trois seigneuries, en bled, 2000 minots à 7frs. le minot.....	14,000	0
Total des Rentes et des Lods....	£2,004 16s.	—48,116 5

Moulins.

Deux au Sault aux Recollets....	2000 minots.
Un à Lachine.....	557 "
Deux dans St. Sulpice.....	1571 "
Un au Lac.....	190 "
Deux Moulins à Vent.....	220 "

Total des bleds des Moulins, 4544.. Vendus à 7frs. 31,808 0

Total du revenu des rentes et casuels en 1795,
£3,330 3s.....—79,924 5

NOTE 1.—Le Séminaire fait grace du tiers au quart sur les Rentes et les Lods, il sera donc aisé de reconnoître quel eut été le revenu, si on n'avait fait aucune grace.

Rentes et Lods.

Dans la ville de Montréal.....	21,748	7
Dans les fauxbourgs.....	2,482	0
Dans les villages de l'Isle.....	628	0
Dans l'Isle de Montréal, en argent.....	21,018	11
Dans l'Isle de Montréal, en bled, 1037 minots à 9frs. 17s.	10,215	0
Dans St. Sulpice, en argent.....	5,466	3
Dans St. Sulpice, en bled, 832 minots à 9frs. 17s.....	8,195	4
Au Lac, en argent.....	1,646	13
Au Lac, en bled, 200 minots à 10frs.....	2,000	0

Total des Rentes et des Lods..... 78,349 18

1796.

Moulins.

Deux au Sault aux Recollets....	1844 minots.
Un à Lachine.....	555 "
Deux dans St. Sulpice.....	775 "
Un au Lac.....	124 "
Deux Moulins à Vent.....	205 "

Total du bled des moulins.. 3503 minots à 10frs. 35,030 0

Total du revenu des rentes et casuels en 1796.... 108,379 18

1797.

Rentes et Lods.

Dans la ville de Montréal.....	27,983	1
Dans les fauxbourgs.....	7,233	0
Dans les villages de l'Isle.....	163	0
Dans l'Isle de Montréal, en argent.....	17,079	0
Dans St. Sulpice, en argent.....	4,287	14
Au Lac, en argent.....	2,411	18
Dans l'Isle de Montréal, en bled, 1227 minots à 5frs. 7s..	6,564	9
Dans St. Sulpice, en bled, 1032 minots à 5frs. 7s.....	5,521	4
Au Lac, en bled, 280 minots à 5frs.....	1,400	0

Total des Rentes et des Lods..... 72,643 6

Moulins.

Deux au Sault aux Recollets....	2602 minots.
Un à Lachine.....	634 "
Deux dans St. Sulpice.....	1601 "
Un au Lac.....	124 "
Deux Moulins à Vent.....	242 "

Total du bled des moulins.. 5203 minots à 5frs 10s 28,616 10

Total du revenu des rentes et des casuels en 1797. 101,259 16

1798.

Rentes et Lods.

Dans la ville de Montréal.....	18,063	9
Dans les fauxbourgs.....	3,463	8
Dans les villages de l'Isle.....	968	9
Dans l'Isle de Montréal, en argent.....	21,055	1
Dans St. Sulpice, en argent.....	5,854	5
Au Lac, en argent.....	1,664	13
Dans l'Isle, en bled, 1155 minots à 5frs. 16s.....	6,669	0
Dans St. Sulpice, en bled, 1167 minots à 5frs. 16s.....	6,760	12
Au Lac, en bled, 288 minots à 5frs. 16s.....	1,641	8

Total des Rentes et des Lods..... 66,178 5

Moulins.

Deux au Sault aux Recollets....	2463 minots.
Un à Lachine.....	1235 "
Deux dans St. Sulpice.....	1981 "
Un au Lac.....	234 "
Trois Moulins à Vent.....	393 "

Total du bled des moulins. 6306 minots à 5frs.. 31,530 0

Total du revenu des rentes et casuels en 1798.. 97,708 5

1799.

Rentes et Lods.

Dans la ville de Montréal.....	15,406	8
Dans les fauxbourgs.....	8,948	19
Dans les villages de l'Isle.....	1,526	0
Dans l'Isle de Montréal, en argent.....	32,725	19
Dans St. Sulpice, en argent.....	6,184	14
Au Lac, en argent.....	1,709	14
Dans l'Isle, en bled, 1099 minots à 5frs.....	5,495	0
Dans St. Sulpice, en bled, 1360 minots à 5frs.....	6,800	0
Au Lac, en bled, 342 minots à 5frs.....	1,710	0

Total des Rentes et des Lods..... 80,506 9

Moulins.

Deux au Sault au Recollets....	2737 minots.
Un à Lachine.....	822 "
Deux dans St. Sulpice.....	1787 "
Un au Lac.....	235 "
Trois Moulins à Vent.....	634 "

Total du bled des moulins. 6235 minots à 4frs 19s 30,863 5

Total des rentes et casuel des seigneuries en 1799, 111,369 14

	frs.	s.
En 1792 la recette fut de....	63,034	9
En 1793 elle fut de.....	92,420	0
En 1794 elle fut de.....	70,087	18

Ce qui fait en comparant ces huit années ensemble, environ 90,000 frs. par an.

Cet état du revenu annuel du Séminaire peut être appuyé par le calcul qui suit :

Le deux Août, 1781, le Séminaire de Montréal présenta son *aveu et dénombrement* par devant Son Excellence M. Haldimand. L'augmentation dans les rentes, depuis cette époque ne saurait produire une erreur remarquable. Or voici la teneur de cet acte authentique :

<i>Rentes.</i>	<i>Argent du Canada.</i>	frs.	s.
Dans la ville de Montréal.....		454	16
Dans les villages de l'Isle, La Pointe Claire.....		207	3
La Pointe aux Trembles.....		19	17
La Rivière des Prairies....		9	0
Le Sault au Recollets.....		145	12
St. Laurent.....		6	1
Dans le village de l'Assomption.....		476	0
Dans l'Isle de Montréal, en argent.....		3,158	2
Dans St. Sulpice, en argent.....		1,149	0
Au Lac, en argent.....		218	8
Dans l'Isle.....en bled 2635½	} minots 4663½ à 5frs. 10s....	25,675	7
Dans St. Sulpice, " 1818½			
Au Lac..... " 2114½			

Total des rentes suivant l'aveu et dénombrement.	31,519	15
Supposons dans les trois seigneuries 600,000frs. de rente chaque année, (cette somme n'est pas au-dessous de la vérité,) on aura pour les lods par an.....	50,000	0
Le revenu des moulins, année commune est de.....	30,000	0

Le revenu total des rentes, lods et moulins sera donc de	111,519	0
Le Séminaire fait grace d'environ ½ sur les rentes, } 6,304frs., et d'un tiers d'environ sur les lods 16,666frs. }	22,970	0

Le revenu du Séminaire sera donc, année commune de 88,549 0
C'est-à-dire, environ 90,000frs.—£3750.

Ce revenu insuffisant pour les charges du Séminaire (comme l'emploi le prouve), est susceptible d'augmentation, soit par la construction d'un moulin que l'on fait bâtir à grande frais dans l'isle de Montréal, soit par les nouvelles concessions faites et à faire, et moulins à construire, au Lac des Deux-Montagnes.

On demande 2o. A quoi sont employés les rentes et casuels des seigneuries du Séminaire ?

Ces revenus sont employés comme il suit :

1o. En bonnes œuvres ;	frs.	s.
Souscriptions publiques, et aumônes dans le pays.	15,898	7
Petites écoles, et écoliers au Séminaire.....	3,680	0
Collège de Montréal.....	10,120	0
Mission de sauvages au Lac des Deux Montagnes, où se trouvent habituellement trois prêtres, deux sœurs de la congrégation, et où l'on reçoit grand nombre d'étrangers.....	12,000	0
Total des bonnes œuvres, année commune	41,648	7
Le Séminaire en outre donne gratuitement au trois communautés religieuses de la ville, trois prêtres presque entièrement occupés pour elles.		
2o. En réparations extraordinaires dans les bâtiments, moulins, &c. Elles ont été l'un dans l'autre, chaque année de.....	22,000	0
3o. En un arpenteur, résidant à la procure du Séminaire pour les plans, et livres terriers, par an.....	7,200	0
4o. Pour les voyages, et habillements à l'arrivée de 17 prêtres émigrés, venus d'Europe pour le Séminaire de Montréal.		
5o. Pour la nourriture et entretien de treize prêtres demeurants au Séminaire ; pour soigner dans leurs maladies et infirmités les vingt-deux prêtres, qui appartiennent au Séminaire ; pour leurs voyages ordinaires.		
6o. Pour loger et nourrir gratuitement, avec leurs gens et leurs chevaux, tous les prêtres étrangers qui, venant à Montréal, veulent prendre leur logement au Séminaire.		
7o. Pour les réparations ordinaires dans un grand nombre de bâtiments, maisons, granges, moulins.		
8o. Pour une foule d'affaires litigieuses, qu'amènent les droits seigneuriaux.		

On sent que le revenu mentionné ne saurait suffire à tant de charges. Aussi le Séminaire a-t-il contracté environ quinze cents louis de dettes, qui seront payées en diminuant les réparations extraordinaires, et surtout par le rapport du moulin qu'on achève de construire. C'est pour ce moulin que la dette a été contractée.

NOTE 2.—Au tableau des cinq années ci-dessus, on peut joindre le résultat des trois années précédentes, pour avoir dans les cours de huit années un moyen d'estimer plus sûrement le revenu du Séminaire, année commune :

NOTE 3.—Quoiqu'on n'ait pas demandé quel est le revenu annuel des domaines du Séminaire, on peut observer qu'il est, année commune, depuis cinq ans, de 3,000frs.

Au reste, toutes les fois qu'à la fin de l'année la recette surpasse la dépense, il est de règle au Séminaire, que ce surplus soit employé en bonnes œuvres. Et cet article sera toujours fidèlement exécuté.

On demande 3o. Le nombre des Sulpiciens, leurs noms et leur pays natal, &c.

Le Séminaire est composé de vingt-deux Sulpiciens, savoir :

1. Jean Henri Auguste Roux, né en France, arrivé en Canada en 1794.
2. Claude Poncin, Français, en Canada avant la conquête.
3. Jean Baptiste Marchand,
4. Joseph Pierre Borneuf,
5. Michel Leclerc,
6. Louis Amable Hubert,
7. Jean André Guillimin,
8. Jean-Baptiste Charles Bédard, } Canadiens.
9. Candide Michel LeSaulnier, Français, arrivé en Canada en 1793.
10. Jean-Baptiste Jacques Chicoineau, Français, arrivé en Canada en 1796.
11. Antoine Alexis Molin..... Français
12. Claude Rivière..... Français
13. François Hubert..... Français
14. Anthelme Malard..... Français
15. Jean-Baptiste Thavenet..... Français
16. Melchior Sauvage..... Français
17. Antoine Sattin..... Français
18. Gme. Marie de Garnier des Garets Français
19. Charles Bonaventure Jaoüen..... Français
20. Jacques Guillaume Roque..... Français
21. Antoine Houdet..... Français
22. Antoine Gaiffe, Français, arrivé en Canada en 1798.

Arrivés en Canada en 1794.

Arrivés en Canada en 1796.

On demande 4o. Quelles sont les charges ou offices du Séminaire : et par qui ils sont occupés.

Avant d'entrer dans le détail des offices du Séminaire, il est bon d'observer qu'aucun des prêtres du Séminaire n'a droit sur les revenus de la maison. Tous, sans exception, sont entretenus honnêtement, suivant la simplicité de leur état, mais sans aucune espèce de retribution. Le Séminaire n'a jamais varié sur ce point important de la règle.

1o. Il y a un Supérieur du Séminaire, qui a la principale part dans le gouvernement de la maison, il a quelques légères aumônes à sa disposition ; et il en rend compte au conseil *privé*, dont il sera parlé, il ne peut rien faire d'important sans ce conseil. Il est élu pour cinq ans, au bout desquels le conseil des douze s'assemble pour le continuer ou pour lui donner un successeur.

20. Il y a un conseil, composé de douze, présidé par le Supérieur. Les membres sont perpétuels. Ce conseil ne s'assemble que pour nommer le Supérieur, les membres du dit conseil, et ceux du conseil *privé*. On le convoque quelquefois pour des affaires extraordinairement importantes.

30. Il y a un conseil *privé* composé de quatre prêtres, présidé par le Supérieur; ces conseillers sont perpétuels. Tout dans ce conseil se décide à la pluralité des voix; toutes les affaires importantes y sont traitées; tous les comptes des administrateurs de la maison y sont rendus; toutes les charges ou offices du Séminaire y sont nommées.

Tous ces offices (amovibles chaque année) sont comme il suit :

40. Il y a un prêtre de la maison, nommé pour être Procureur, sa fonction est de recevoir les rentes, lods et autres droits seigneuriaux; il est chargé de tous les papiers, d'intervenir dans tous les contrats et dans toutes les affaires litigieuses. Il rend chaque année ses comptes au Supérieur, qui les présente au conseil privé.

50. Il y a un économe qui a la régie des moulins, &c. Il est chargé de toute la dépense de la maison, excepté celle qui concerne les droits seigneuriaux; il reçoit du Procureur l'argent nécessaire à la dépense.

60. Il y a un curé, qui a plus particulièrement le soin de la paroisse de Montréal.

70. Il y a un prêtre nommé pour chaque communauté religieuse. Il y en a un pour les militaires catholiques; et un autre pour les malades de l'hôpital, et pour les prisonniers.

80. Tous les prêtres qui demeurent au Séminaire s'emploient au service de la paroisse de Montréal. Il est de notoriété publique, qu'ils mènent tous une vie très retirée et très laborieuse.

90. Cinq prêtres demeurent au collège de Montréal pour l'éducation de la jeunesse.

100. Il y a ordinairement trois prêtres résidant au Lac des Deux Montagnes, pour la mission des sauvages Iroquois et Algonquins. Depuis le mois de novembre, 1799, il n'y a que deux prêtres à cette mission.

110. Il y en a deux qui desservent des cures; l'un celle de l'Assomption, près le Détroit, l'autre celle de St. Benoit près du Lac des Deux Montagnes.

120. Il reste treize prêtres au Séminaire, parmi eux sont quelques infirmes et un vieillard. C'est de ce nombre que l'on tire ceux qu'on envoie de tems en tems pour aider les curés voisins qui ont besoin de secours, et pour faire, à la demande de l'évêque, quelque mission extraordinaire, telle que la mission de Kingston.

Ces divers offices sont occupés comme il suit :

Le Supérieur est M. Roux ; il a été élu à l'unanimité, le 23 Octobre, 1798.

Les membres du conseil des douze sont, dans la liste, les douze premiers après M. Roux

Les membres du conseil privé, sont MM. Poncin, Guillimin, Borneuf, Lesaulnier.

Le Procureur est M. Borneuf, M. Bédard, suppléant.

L'Econome est M. Molin.

Le Curé est M. Lesaulnier.

Les prêtres qui sont au collège, sont MM. Chicoineau, Principal, Rivière, DesGarets, Houdet, Gaiffé.

Les prêtres qui sont au Lac des Deux Montagnes sont MM. Leclerc, supérieure, Malard.

M. Marchand dessert la cure de l'Assomption, du Detroit ; et M. Sauvage celle de St. Benoit.

A Montréal, ce 19 février, 1800.

(Signé,)

ROUX,
Sup. du Séminaire.

**EXTRACT OF A DESPATCH, DATED 5TH APRIL, 1800, FROM
LIEUT. GOVERNOR MILNES, TO HIS GRACE THE DUKE
OF PORTLAND.**

"In the month of October last, I received a letter (of which I enclose a copy,) from the Lord Bishop of Quebec, containing His Lordship's sentiments relative to the means of improving the state of education in this Province. This I submitted to a Committee of the whole Council, who reported upon it as follows: "that having taken into consideration the paper referred, and being duly apprized of its important tendency to promote the welfare of the Province, the Committee do most seriously recommend that the plan suggested be adopted."

In order to facilitate the adoption of any plan which eventually may be determined upon, it has occurred to me that a portion of the waste lands, should His Majesty be graciously pleased to allow of such a grant, might be appropriated to the purpose of making the necessary fund both for the establishment of Grammar Schools, and likewise for the foundation of a College at Quebec, in addition to whatever may be reserved from the Jesuits' Estates. Such a measure would not only tend to increase the popularity of His Majesty's Government, but also be highly beneficial both in a political and moral light, and especially as a means of encouraging the English language throughout the Province, which, as the Lord Bishop most justly remarks, has, as yet, made little or no progress among the Canadians ; so little that there are but one or two English members in the House of Assembly who venture to speak in the language of the mother country, from the certainty of not being understood by a great majority of the House.

EXTRACT OF A DESPATCH FROM HIS GRACE THE DUKE OF PORTLAND, DATED 12TH JULY, 1800, TO LIEUT. GOVERNOR MILNES, RELATIVE TO THE ESTABLISHMENT OF PUBLIC SCHOOLS IN THE PROVINCE OF LOWER CANADA.

“ With respect to making a suitable provision for the education of youth in Lower Canada, and more particularly for laying a foundation for teaching the English tongue generally throughout the Province, I not only fully coincide with the sentiments expressed by the Bishop of Quebec, and concurred in by the Executive Council on this point, but I am of opinion that the proposed free schools for this purpose should be established under the express condition of teaching the English language *gratis* to the children of His Majesty's subjects resident within the district, for which such schools are established, without any limitation as to the number of children.”

“ The masters should certainly be authorized to make a reasonable demand for teaching writing and arithmetic, or what would be still better, the terms may be settled from time to time by the Trustees or Governors of such free

schools, in the appointing of which it is His Majesty's pleasure that the Governor, Lieutenant Governor, or person administering the Government for the time being, the Bishop of Quebec, the Chief Justice of the Province, and the Speaker of the Assembly, should be of the number.

In addition to the free schools for teaching the English language, (which I consider to be of the first necessity, and for the establishment of which you will consider yourself hereby authorized to appropriate from the Provincial revenues such sums as may be necessary to pay the salaries of the masters, who shall be from time to time appointed by you,) it will be necessary in one or perhaps two instances to have recourse to others of an higher order, and of the nature of our public schools here, in order that neither the means, nor the necessary encouragement may be wanting, to cultivate the study of the learned languages. It appears to me that this establishment will be sufficient for the present, although in due progress of time foundations of a more enlarged and comprehensive nature will be requisite for the promotion of religious and moral learning, and the study of the arts and sciences. With this view His Majesty, ever ready to manifest his paternal consideration and regard for his subjects, and desirous to afford all possible assistance and encouragement to his Province in carrying into execution an object of such importance as the instruction and education of youth, has signified to me his Royal pleasure, that you should, upon consulting the members of His Majesty's Executive Council, report to me in what manner and to what extent it would be proper to appropriate a portion of the Crown lands, or revenues arising therefrom, for this purpose."

FROM THE DUKE OF PORTLAND TO MR. CHIEF
JUSTICE OSGOODE.

WHITEHALL, SATURDAY, 26th July, 1800.

SIR,—I have had the honor to lay before the King the request you desired me to submit to His Majesty, that he would be graciously pleased to permit you to resign the Office of Chief Justice of his Province of Canada; in answer

to which, I am commanded to acquaint you with His Majesty's consent; and that the sense he has of your merits has disposed His Majesty to signify his pleasure, that out of the revenue of the Province a clear annuity of eight hundred pounds per annum shall be settled upon you during your life, from the time your resignation shall take place.

The experience I have had of your services, and of your constant attention, vigilance, and firmness in securing and promoting the interests of His Majesty's Government during the time I have had the honor of holding the situation in which I am placed, cannot but make me feel very sincere pleasure in communicating to you this mark of His Majesty's Royal favor, which you certainly are at liberty to avail yourself of at any moment you think proper. But I should very unworthily express the sense which His Majesty's munificence is intended to confirm, and I should do great injustice to the sentiments I have just professed, was I to conceal from you the hope that His Majesty entertains, that your health may not require you immediately to resign your office; and that if it should not enable you to remain in Canada, until the conclusion of a peace, it may not be materially impaired by your residence there being prolonged for another twelvemonth, should the war so long continue. The time of your resignation is unquestionably in your own power; but considering the effects it will have upon His Majesty's interests and those of the Province, you must excuse the apprehensions which suggest the wish, that a temporary absence from business, or a tour, or some other expedient, may be resorted to for the restoration of your health, which may enable you, without exposing it to too great hazard, to delay your departure until the period I have alluded to.

I have detained you longer than I intended; but I shall only add, that whenever you may think fit to return to this Country, I shall hope that you will give me the opportunity of improving into intimacy that acquaintance, which I esteem it to be one of the advantages of my official station to have formed.

I have the honor to be, Sir,

Your most obedient humble servant,
PORTLAND.

To the Hon. William Osgoode, &c., &c.

FROM THE DUKE OF PORTLAND TO SIR R. S. MILNES.

WHITEHALL, 6th *January*, 1801.

SIR,—The matters stated in your letter to me, separate and secret, of the 1st November, are so highly important to the King's Canadian Government, that I shall make them the subject of this separate despatch.

The prevalence of the popular influence in Lower Canada, seems to be attributed by you to three principal causes, viz: First, the separate and unconnected interests of the seigneurs and the habitants, by which the latter are become totally independent of the former, and are not likely to be influenced by them in any respect:—Secondly, the independence of the whole body of the Roman Catholic Clergy, who are accountable to no other authority than that of their own Bishop:—and, Thirdly, the necessity there has been of disembodysing the Canadian Militia, in consequence of that country's having been conquered by His Majesty's Arms, and the inexpediency of their being called out under the present circumstances.

As the separate and unconnected situation of the seigneurs and habitants arises from the established laws and usages of the Province, in regard to the property held by these two descriptions of persons, it is an evil certainly to be regretted; but I fear it will be very difficult, if not impossible, to remedy: and as the Canadian gentlemen can derive no influence from their landed possessions, it must necessarily be left to the particular exertions, ability and ambition of individual seigneurs, to emerge from their present state of insignificance. All that can be done in this respect, is to hold out motives for exertion, and to give all possible encouragement in those instances where any disposition of the kind is found to exist. But before I proceed further, I cannot help expressing to you my surprise, that the establishment of the Canadian battalion in Lower Canada, the principal object of which was, to draw the Canadian gentlemen from their indolent and inactive habits, and to attach them to the King's service, should have met with no greater success. Had any eagerness been manifested in completing this battalion, it might have been judged advisable to form a second and third of the same

sort, in case the spirit and inclination of the King's Canadian subjects appeared to call for it.

With respect to the Roman Catholic Clergy being totally independent of the Governor, I must first observe, that I am not at all aware of the causes that have led to a disregard of that part of the King's Instructions, which require "that no person, whatever, is to have Holy Orders conferred upon him, or to have care of souls, without license first had or obtained from the Governor." The resumption and exercise of that power by the Governor, and the producing such a license as a requisite for admission to Holy Orders, I hold not only to be of the first importance, but so indispensably necessary, that I must call upon you to endeavour to effect it by every possible means which prudence can suggest. You will, therefore, readily conclude that I must see with pleasure your proposal of increasing the allowance to the Catholic Bishop, adopted almost to any extent, if it can prove the means of restoring to the King's representative in Canada, that power and control which are essentially necessary to his authority, and which is expressly laid down by the 44th Article of your instructions, above alluded to.

The third and last cause of the preponderance of the popular influence, viz: the situation of the Canadian Government, with regard to its Militia, appears to me to carry its own remedy, inasmuch as the establishment itself is capable of being converted into an instrument of considerable weight and authority in the hands of the Executive Power, provided the measure which I have to suggest should meet the opinions and sentiments of the Canadians themselves. According to your statement, what seems to be wanting is to put the Militia upon such a footing, that its being called out shall be so much for the advantage of those that compose it, as to render them favorable to the measure. With this view, I have examined your Militia Acts of May, 1794, and May, 1796, and the particular in which they strike me, as being defective is, that they contain no provision for the annual meeting of the Militia, or even any part of it except for *two* days in the year, for the purpose of being mustered. What I would propose, therefore, is, (in case of its meeting with the approbation of

the Legislature,) that a certain proportion of the Militia, to be chosen by ballot, should be called out to be exercised for three weeks or a month in each year, during which time the officers and men who shall be called out, should be allowed the same pay and subsistence as His Majesty's regular troops. It would of course be provided that the men who should be chosen by ballot in any one year, should not be ballotted for again until the residue of the Militia should have been called out, by which means, all the officers and men would take their regular tour of duty, and partake of the advantages arising from their being called out.

The adoption of this part of our Militia Law, (with such variations as local circumstances may call for,) will necessarily require that another part of it should be adopted, viz: the permanent pay of an Adjutant to each Regiment, and of a certain number of non-commissioned Officers, fives and drums, as in the Militia of this Kingdom.

In amending the Canadian Militia Bill, in the manner I have suggested, provision might also be made for such other appointments as would be necessary during the time of the annual exercise of that portion of the Militia which may be called out. What the number and description of those appointments should be, must depend upon the number of Militia men to be called out, and must therefore be regulated on the spot. You will understand that I am only stating the outline of such amendments to your Militia Laws, as I conceive to be most likely to secure the objects you have in view, and to create and establish that interest and connection which should subsist between the Militia and the Executive Authority of the Province. Should you be of opinion that these amendments will meet with the concurrence of the Legislature, the sooner they are digested and put into proper form, with the assistance of the Executive Council and the Law Officers of the Crown, the better, and you will, as immediately as possible, transmit to me an estimate of the additional expense which will be created by them; in forming which estimate, I am confident you will take care to keep it as low as the object to be attained by the adoption of the proposed amendment will allow of.

These leading points, relative to the Roman Catholic Clergy, and the Militia, being carried, every future step which is made in the settlement of the Province must, by making grants of the waste lands of the Crown to Protestants upon the conditions, and subject to the regulations now finally established and acted upon in the land granting Department, necessarily tend to lessen the degree of popular influence, which is at present possessed by that description of His Majesty's Canadian subjects, which constitutes so great a proportion of the inhabitants of the Province at large.

I need not add, that I shall be anxious to receive your answer to this letter, as well as the future details which you promise to communicate to me.

I have the honor to be, Sir,

Your most obedient humble servant,

(Signed,) PORTLAND.

TO THE DUKE OF PORTLAND.

QUEBEC, 10th *February*, 1801.

MY LORD,—I have had the honor to receive Your Grace's despatches Nos. 9 and 10, and also the one marked separate, of the 17th of October. I shall, agreeably to Your Grace's directions, take the necessary steps for putting in execution the writ transmitted from the Postmaster General, for the recovery of the balance due to the General Post Office by Mr. Finlay, but I am sorry that I have reason to suppose that this gentleman's property is far from being adequate to satisfy the demand against him. With a view of facilitating the execution of His Majesty's gracious intentions of granting a certain portion of the waste lands to those members of the Executive Council on whom the burthen of the land business has principally rested, I have endeavoured to inform myself as correctly as possible of the value of unconceded lands in this Province, and I find that in those townships the outlines of which only have been run, they are estimated on an average to be worth eighteen pence an acre. A township is calculated to contain about forty-four thousand acres exclusive of the Church and Crown Reserves. In the few townships which have been granted

to a leader and his associates, I understand that in general the associates engaged to convey to the leader the whole of their share, excepting two hundred acres as a compensation to the leader, for the expense of the survey and subdivision and the patent fees, the expense of surveying and subdividing into two hundred acre lots, a township of ten miles square, is reckoned at from one hundred and forty to one hundred and eighty pounds, and the old patent fees, £3 6s. 8d., the thousand acres. From this statement Your Grace may form a pretty just idea of the actual value of the grant which it shall please His Majesty to make to the members of the Executive.

SIR R. S. MILNES, TO THE DUKE OF PORTLAND.

QUEBEC, 18th February, 1801.

MY LORD,—In my despatch No. 37, I had the honor to inform Your Grace that the Commissioners for the management of the Jesuits' Estates were then employed in making out a final Report of the actual value and revenue of those estates.

I have now the honor to transmit their Reports relative to those objects, the first of which is taken from the *aveu et denombrement* delivered to Governor Haldimand in the year 1781, and the second from the statements given in by the agents now employed under the Commissioners.

The information most to be depended on would certainly have been obtained by means of a *papier terrier* ; but my objections to it arose from finding it would not only have been attended with a considerable expense, but that it would have taken up much more time. I therefore judged it expedient to fix upon the present mode, and I believe I may venture to assure Your Grace that the statement of the valuation and revenue cannot be materially wrong.

It appears from the first Report (A), dated the 13th of January, that the annual revenue in the year 1781 amounted to £1245 5s. 4d., exclusive of the property situated within the Cities of Quebec and Montreal ; and by the second Report (B), dated the 6th of February, it is computed that the concessions made since that time have increased the annual revenue to the sum of £1358 13s. 4d.

Though this property under better management is capable of any great improvement, and the unconceded lands amount to above five hundred thousand acres, yet Your Grace will observe from the private memorandum sent to me by the Chairman of the Commission, that the grants in general are twenty leagues in depth, and not more than from one to two leagues in front (that is, along the river,) a great part running backwards into a mountainous country, and consequently not likely, for a long period of years, to be conceded.

I am, therefore, now decidedly of opinion, that the value of those estates, when all the circumstances are considered, will not admit of the measure I had the honor to propose in my despatch No. 21, respecting a division of the property which, from the magnitude of the estates, I then had reason to think might have been effected without prejudice to Lord Amherst.

I can now also assure Your Grace, that should His Majesty finally determine to carry into effect his gracious intentions with respect to Lord Amherst, I am of opinion the present moment is peculiarly favorable; not but it must at all times be considered as an unpopular act, and as a measure that will create much dissatisfaction, but I believe infinitely less so now than at any former period, the public having, according to the tenor of Your Grace's despatch No. 7, of the 12th July last, been informed by my speech to both Houses of the Legislature, that His Majesty has been graciously pleased to give directions for the establishing of a competent number of free schools, &c., which has had the happiest effect in setting aside all reference to the Jesuits Estates. The House of Assembly, so far from hinting at the subject of those estates, either in their Address, or since, are now preparing a bill for the purpose of seconding the beneficent views of His Majesty by erecting school houses in the different parishes, to be under the control of the Executive Government, and should the Roman Catholic Clergy not use their influence in opposition to the measure it will probably be adopted, but they have hitherto discouraged the introduction of learning into the Province.

While I am on this subject it may not be improper to remark to Your Grace, that the buildings and town lots

formerly belonging to the Jesuits in the Cities of Quebec and Montreal, and which it is proposed to reserve for the use of the Crown, may be considered as more than an equivalent for the expense which will attend the first establishment of the free schools. This will more fully appear to Your Grace from the enclosure (C), in which the Jesuits' College at Quebec, now in possession of the Military, is mentioned as being sufficiently large to afford barracks for from 1500 to 1800 men, besides store room for great quantities of provisions, and as the Canadians must consider themselves as for ever cut off from all prospect of seeing that building restored to its original purposes, it is of no small importance that by the declaration of His Majesty's intentions respecting the establishment of free schools, &c., the hope of an adequate advantage is held out to the public.

With respect to foundations of a more enlarged and comprehensive nature, I shall in pursuance of His Majesty's commands refer to the Executive Council the consideration of the quantity of the waste lands of the Crown, which it may be advisable to set apart for that purpose, and I shall transmit their Report to Your Grace for His Majesty's final determination.

SIR R. S. MILNES, LIEUTENANT GOVERNOR, TO THE
DUKE OF PORTLAND.

QUEBEC, 26th *March*, 1801.

MY LORD,—It is with infinite regret that I find myself compelled to lay before Your Grace some circumstances of an unpleasant nature, that have lately occurred, and which may, I fear, materially affect the well-being of this Province as they will tend to destroy that unanimity in the Executive Government, which it has been my anxious wish to see firmly established, and which is so peculiarly necessary in this colony.

I have for some time back plainly seen that I could no longer depend upon the cordial co-operation of Mr. Chief Justice Osgoode; but as long as he continued to maintain the appearance of decorum in public, I was anxious not only to observe the same on my part, but really to shew every

deference to his opinions, whenever I could do so without absolutely relinquishing every idea of my own in matters wherein I was convinced I was right. This has uniformly been my line of conduct towards Mr. Osgoode till now, and would have continued so had he not thought fit, on a late occasion, in a large company, to lay aside that decency of deportment, the strict observation of which his own situation as well as mine requires, and assume a manner pointedly disrespectful, and a few days afterwards to stand forward in the Legislative Council the violent opposer of a measure of great importance to the Province, which he could not but know had my decided approbation.

In order to give Your Grace a just idea of this proceeding and of the ill consequences that I have reason to apprehend from it, it will be necessary to enter at some length into the subject, and likewise to lay before Your Grace some leading circumstances which I have reason to believe have given rise to the dissatisfaction of Mr. Osgoode.

The principal of these I conceive to be the line of conduct I have thought it right to observe with respect to Mr. DeBonne, and my not having displaced that gentleman from his seat on the bench in consequence of the charges preferred against him by Mr. Osgoode. The reasons that have actuated me on this occasion I have already had the honor to state to Your Grace in my letters dated

and the subsequent conduct of Mr. Judge DeBonne has been such that I have no reason to wish I had acted with less moderation than I have done.

Since the representation I made to Mr. DeBonne, respecting his non-attendance in the Courts, he has been constant in his duty, and at the opening of this Parliament he called upon me to offer his services, and to say that he had no wish but to be considered by me in a favorable light, and to give his support as he uniformly had done to the Representative of His Majesty in this Province. The propriety of this conduct, on the part of Mr. DeBonne, left me no choice but to accept of his apology, as nothing now remained against him *directly* of a public nature, though I foresaw that in so doing I should inevitably incur the censure of Mr. Osgoode, whose resentment against Mr. DeBonne continues unabated, and who from that time has

openly shewn his dissatisfaction. In order, however, to avoid as much as possible giving him uneasiness, I took the precaution of sending my private secretary to Mr. Osgoode to acquaint him of Mr. DeBonne having been with me, and of the result of his application. I attribute the late conduct of Mr. Osgoode principally to this cause, but it is not the only point in which he thinks himself slighted by me.

By his wish to be the sole adviser and proposer of every Government measure, he exposes himself to unavoidable disappointment, as I feel it my duty, in the responsible situation in which I have the honor to be placed by His Majesty, to collect information, and at least to hear the opinions not only of the Chief Justice but of every person employed under Government, whose ability or local knowledge entitles them to attention, but this I cannot do without deviating from what the Chief Justice thinks is due to him alone, and he has avowed to me, that he feels himself offended on this account, and plainly shews that he does not choose to be consulted by me unless he is suffered to dictate in every particular, a condition to which I can by no means accede, though I am most desirous to pay every attention that is due to him in the confidential situations he holds in this Government.

Having acquainted Your Grace with the grounds of the coolness I have for some time past observed on the part of Mr. Osgoode, I shall lay before you the occasion he has chosen to throw off all decorum, and to declare himself inimical to my administration, observing previously that Mr. Osgoode's having refused his assent to the measure in question is not what I consider as in the least reprehensible, but his having done so in the manner he has done, without previously making known to me the grounds of his objections, when the Bill was taken to him, by which they might have been corrected or avoided, and when he found himself left in a minority, his having entered a protest against it on the second reading.

Having received from the Commissioners for erecting the Court Houses at Quebec and Montreal a representation stating that the sums appropriated for that purpose had been expended, and that a further aid of £8000 would be

necessary to complete the buildings, I desired them to meet at Government House together with such of the members belonging to the Executive Council as were also members of the House of Assembly. This meeting was composed of Mr. Justice Dunn, the Attorney and Solicitor General, Mr. Barthelot, Commissioners, and of Mr. McGill, Mr. DeBonne, Mr. Lees, and Mr. Young, Executive Councillors and all members of the House of Assembly, except Mr. Dunn, who is a Legislative and Executive Councillor; in the presence of these gentlemen I declared that I could not with propriety advance more money, unless the taxes for the purpose of repaying His Majesty were of such a nature as to insure a more prompt return than what had hitherto taken place, as £1000 only had been repaid in two years, of the £10,000 that had been appropriated by the Legislature, during General Prescott's administration. It was the unanimous opinion of these gentlemen, that in preference to a new tax it would be both just and expedient to raise under certain modifications a part of what was due of the Lods et Ventes in the censive or jurisdiction of His Majesty, and which His Majesty had been pleased by a message from Lord Dorchester, bearing date the 29th of April, 1794, to declare were to be applied towards defraying the civil expenses of the Province, and it was also their opinion that, from the temper and favorable disposition of the House, it would be carried.

And here I must observe to Your Grace, that no doubt was entertained with respect to the propriety of bringing this matter before the House of Assembly, and that Lord Dorchester's message was deemed sufficient authority for that purpose. I now determined to send a message to both Houses, the purport of which was to recommend that they would take into consideration the statement of the Commissioners, and I directed Mr. Ryland, my secretary, to shew the message to Mr. Osgoode, who entirely approved of it.

The Bill was soon after brought forward in the House of Assembly, entitled, "An Act for the relief of persons holding lands of His Majesty in Roture, on which Lods et Ventes are due;" it was moved by Mr. McGill, an Executive Councillor, and as soon as the clauses were filled up, Mr. Lees, an

Executive Councillor and a member of the House, at my request waited upon Mr. Osgoode in order to shew it to him, when after keeping it in his possession till the next day, he returned it to Mr. Lees, with whom I must observe he is in the habit of some intimacy, without hinting at any objection, or indeed making any remark whatever upon it.

The Bill passed the House of Assembly, by a majority of *twenty-seven to two*. Full time was allowed to give it due consideration, as it was above six weeks before the Lower House. It was not till the second reading in the Legislative Council, that Mr. Osgoode with great warmth declared himself against the measure, and avowed his intention of entering a protest on the Journals.

I shall reserve for a separate despatch the arguments that may be opposed to the protest of Mr. Osgoode, and in this letter shall confine myself to pointing out to Your Grace the ill effects that have already arisen from the kind of opposition he seems disposed to make, to whatever measure I may see occasion to promote, which shall not originate with him.

During the whole time the Bill alluded to was before the House of Assembly, no clamour prevailed against it, nor were any addresses brought forward on the subject, to stop its progress in that House, which would have been the regular mode of proceeding had it been unpopular; but as soon as the Chief Justice's opposition was publicly known, it was the occasion of an address against it being sent to the Legislative Council by those who were the most interested in the Lods et Ventres remaining unclaimed.

If the Chief Justice had succeeded in carrying the question in the Legislative Council, in opposition to what were known to be my sentiments, it would have placed me in a very awkward situation; but he was only seconded by two gentlemen who, from motives of private interest, and from their connexions, were parties concerned in this particular question; one of whom, Mr. Lanaudière, has a sinecure place of £500 a year under Government, and might therefore have been influenced in his vote had I thought proper to speak to him; but I have nothing to apprehend from the opposition of the Chief Justice, only so long as I

continue to possess the confidence of the other leading members of the Councils, and can depend upon their co-operation. On the public mind, however, his conduct cannot fail to have a bad effect.

From the particulars I have had the honor to lay before Your Grace, you will be enabled to judge how far it can be expected that His Majesty's service should be carried on with advantage or becoming dignity, if a person holding situations of such high trust as those of Chief Justice of the Province, Speaker of the Legislative Council, and Chairman of the Committees of the Executive Council, so conducts himself as to preclude all confidence between him and the person administering the Government, and suffers himself to be publicly considered as in open opposition to the Governor.

I shall only add that I have endeavoured as long as possible to avoid coming to an open rupture with the Chief Justice; but as I can now no longer do so without bending to him in a manner that would be derogatory in my situation, I am obliged, however reluctantly, to lay before Your Grace what has passed, in order that His Majesty may be informed of the circumstances, and direct such measures to be taken in respect to it as His Majesty in his wisdom shall be pleased to judge expedient; trusting that Your Grace will see the absolute necessity of some decisive step before the next meeting of the Provincial Parliament.

SIR R. S. MILNES TO THE DUKE OF PORTLAND.

QUEBEC, 11th August, 1801.

MY LORD,—I have had the honor to receive Your Grace's several despatches, dated the 30th of April, 9th of May, and 6th of June last.

I shall not fail to observe Your Grace's directions on all occasions to notice any matter of importance which the minutes of the Executive Council may contain; and I should have done so with regard to the proceedings respecting the erection of Protestant Parishes to which Your Grace alludes, had the business been completed; the Report

of the Attorney General upon this subject will immediately be laid before the Committee, and I hope that this very important business will soon be brought to a conclusion.

I now enclose a copy of the minutes of the Executive Council, concerning the waste lands of the Crown, from the 1st of March to the 6th of July inclusive. These minutes contain the Report of a Committee of the whole Council on the memorial of Samuel Gale, transmitted in Your Grace's circular despatch of the 18th of December, and on the two enclosures relating to it in Mr. King's letter of the 6th of January last.

As both the memorial and report relate in part to proceedings prior to my taking upon me the administration of this Government, I could not but be sensible of the impropriety of my giving an opinion on the subject, and I therefore thought it right only to order the report to be entered on the minutes.

Another point in the enclosed transcripts, to which it is proper I should call Your Grace's attention, is the Report [Page 69] on the memorial of Mr. Chandler in behalf of the widow and son of the late Rev. Mr. Toosey. I may inform Your Grace that Mr. Toosey was considered by this Government as leader in the Township of Stoneham, where he expended a very considerable sum in beginning a settlement. Since his death, half the township, in the proportion of twelve hundred acres to each, has been granted to his associates, and twelve hundred acres have been reserved for his heirs, as mentioned in the present Report, but which, under His Majesty's instructions, they are prevented from obtaining till they have qualified themselves by taking the oaths of allegiance, and subscribing the declaration, &c., before the Commissioners appointed for the purpose in Lower Canada. It becomes necessary for me to point out to Your Grace the peculiar hardship of this case, and as many instances of a similar nature may occur, particularly with regard to officers and privates in the militia, who were called out during the American war and have latterly obtained orders for lands in reward of their services, but whose affairs obliged them to leave the Province, even before Commissioners were appointed to administer the oaths to them. I beg leave to submit to Your

Grace's consideration, whether a dispensing power, with regard to absentees who are natural born subjects, and have never been settled out of His Majesty's dominions might not be lodged with the Governor and Council so as to enable the grants ordered for such persons to pass.

SIR R. S. MILNES TO LORD HOBART.

QUEBEC, 1st March, 1802.

MY LORD,—Soon after my arrival in this Province, in the year 1799, I found myself under the necessity of representing to His Grace the Duke of Portland, the awkward situation in which I was then placed by the precarious state in which I found the affairs of this Government, and by the insufficiency of my salary to allow of my furnishing and inhabiting the Government House, and keeping up such an establishment as might give me an opportunity of gaining a due consideration from the principal persons in the Province, and engaging them to lay aside all party spirit, and to unite cordially with me for the support of His Majesty's Government; without which, from the divisions that unfortunately existed at the time of my arrival, it would, I feared, be difficult for me to carry on the Government of the Province with advantage to His Majesty's service.

In consequence of my letter to His Grace the Duke of Portland, a copy of which I have the honor to transmit to Your Lordship, His Majesty was most graciously pleased to increase my appointments to £4,000 per annum, without fees, during the time of my administering the Government. This sum, I flattered myself, would have sufficed; but I was soon convinced that less than £5,000, which was what Lord Dorchester expended yearly, at a period when all the necessaries of life were, at least, one third cheaper, was insufficient, if I attempted to keep up the hospitality of the Government House, which is here expected. I deferred, however, making any further application, from an unwillingness to send home a second representation on this subject while the war lasted; and in times of so much public difficulty, I preferred adding a £1,000 a year to my ex-

penditure, out of my own fortune; and even this addition, I can assure Your Lordship, barely enables me to live at Quebec during the winter months, only in such a manner as to keep up that degree of personal interest, without which, I am persuaded, no person can, under the form of Government now established, carry on the administration of this Province for any length of time, on account of the entire want which exists of an aristocratical body, such as might duly adjust the balance of the constitution, by correcting that popular preponderance, the causes of which I have endeavored to explain in a despatch, separate and secret, dated 1st November, 1800, to His Grace the Duke of Portland, relating to the particular situation of this Colony, to which I beg leave to refer Your Lordship, as it will, I trust, shew how much must depend upon the degree of influence that is maintained by the person administering the Government, and upon his appointments being so ample as to ensure that influence. And I might further observe, that in fixing £5,000, I have only stated what is indispensable, and less than I conceive will be found the necessary expenditure of a person who shall more permanently administer the Government of this Province.

From this statement, Your Lordship will perceive, that my situation as Lieutenant Governor administering the Government, though unprecedented with respect to salary, is by no means advantageous, as it possesses none of those advantages which belong to a Staff Officer.

Consideration for my family, as well as for the service of His Majesty, obliges me to state these circumstances to Your Lordship, humbly trusting that if it is His Majesty's pleasure to prolong the leave of absence of the Governor in Chief, and to continue me in the administration of the Government, that the addition of one thousand per annum for my table may be made to my appointments, which will enable me to lay by my own income for the benefit of my family, during my residence here. But should this addition not be thought expedient, I have the honor to submit, that it may be laid before His Majesty, that as I shall have been, this summer, three years in actual employment, and that in time of some difficulty, I hope I may now be permitted to look forward to the indulgence of His Majesty's

leave of absence to return home with the advantages I enjoyed previous to my departure from England as Lieutenant Governor of this Province, a situation to which His Majesty was most graciously pleased to appoint me, in consideration, as I understand, of my having lost my health at Martinico, and having been compelled on that account to resign that Government at a time when, from the extraordinary expenses I was obliged to incur, no advantages had arisen to my family.

It is with infinite reluctance that I have brought myself to make this statement to Your Lordship, to which I have been impelled by my fear of not being enabled to do justice to His Majesty's service, without material injury to my private circumstances. At the same time, I must add that I am truly sensible of the high honor conferred on me by being entrusted with the administration of a Government of so much importance; and nothing would be more gratifying to me, than to devote myself wholly to the service of His Majesty here, if, by the addition above alluded to, I might be enabled to do so without detriment to my family.

The mixture of Canadians and English in this Colony, gives rise to jealousies which can only be avoided by the established hospitality and impartiality of the Governor towards both. To avoid exceeding my salary, I must retrench from that hospitality, and I am sensible I cannot make such a reform without risk of injury to the service.

I have been thus early in my application to Your Lordship, on account of the short time during which the navigation is open to Quebec, and in the hope, if any new arrangement is made, that it may take place in time to enable me to embark for England during the summer months; a point which I should not mention, but as Lady Milnes and five of my children are with me, I am solicitous on their account, that my return home may take place while the navigation of the river is least hazardous, from the extreme severity of this climate in autumn, and the frequent storms that take place about the time of the equinox.

I have the honor to be,

&c., &c.,

(Signed,)

ROBERT S. MILNES.

EXTRACT OF A DESPATCH, DATED 9TH SEPTEMBER, 1803, FROM THE RIGHT HONORABLE LORD HOBART, SIGNIFYING HIS MAJESTY'S APPROBATION OF THE APPROPRIATION OF LANDS, PROPOSED BY THE EXECUTIVE COUNCIL, FOR THE ENDOWMENT OF PUBLIC SEMINARIES IN THE PROVINCE OF LOWER CANADA.

The Report of the Executive Council upon the subject of an establishment for Seminaries of Education has much engaged my attention, and although the appropriation proposed for the foundation and endowments of the plan is upon a very extensive scale, yet as its operation must necessarily be progressive, and the benefits that may be expected to arise from the introduction of a judicious system of education in the Provinces under His Majesty's Government, cannot fail to be of great importance, His Majesty has been graciously pleased to consent that appropriations of land, to the extent that may be necessary for the foundation and endowment of one Seminary to be established at Quebec, and of one other Seminary to be established at Montreal, should be made, and that the necessary measures may immediately be taken for carrying the plan into execution.

RETURN OF THE INCOMES OF THE CHURCH LIVINGS IN LOWER CANADA.

QUEBEC, 2nd June, 1804.

SIR,—In obedience to Your Excellency's commands, signified to me by Mr. Secretary Ryland, I have the honor to subjoin a return of the incomes of the Church Livings in Lower Canada, as directed in the extract, enclosed by him, of a despatch from the Secretary of State.

The income of the Rector of Quebec, is a salary from Government, per annum of,.....	£200	0	0
The income of the Rector of Montreal arises from a like salary of £200, and from a subscription of about £80 per annum by the Parish,.....	280	0	0
The income of the Rector of Three Rivers, a like salary of,.....	200	0	0
The Income of the Rector of William Henry, a salary of £100 from Government, and of £50 from the Society for the Propagation of the Gospel,.....	150	0	0

The Evening Lecturer at Quebec has a salary from Government of £100..... £100 0 0

None of these gentlemen derive any other emolument from their livings, their surplice fees excepted.

There is a vacancy at present at Missisquoi Bay, where the late minister received a salary from Government of £100, from the Society £50, and by subscription from the inhabitants about £30,..... £180 0 0

There is also an opening by the death of Mr. de Montmollin, for placing two other ministers, (as soon as they can be found) with a salary of £100 each, in any part of the new settlements, which Your Excellency shall direct, and to this salary there can be no doubt of an addition of £50 to each, from the Society, nor any doubt of a subscription to the amount just mentioned, if it should be thought expedient to call for it.

The Income therefore for the Grand River, if Your Excellency should fix upon that place, may be calculated at about..... 180 0 0
At L'Assomption, or Caldwell and Christie Manors, 180 0 0

As Your Excellency has been pleased to desire that I would accompany this return with any observations that I may think it proper to make on the subject, I shall not scruple to state my opinion, that the salary of the Rector of Quebec is much too low, whether the respectability of his situation be considered, or the services that are required of him.

The Rector of the Capital of the Province,—of the Seat of His Majesty's Government,—ought undoubtedly to be a person of liberal education, as well as of exemplary manners; and he ought to be able to maintain the appearance in society, and the mode of living, that becomes a gentleman of that description. Your Excellency, I am satisfied, is perfectly aware that £200 a year (whatever might have been the case many years ago, when that salary was fixed) is, in the present state of this Province, utterly insufficient for that purpose. More especially when it is considered that from the great number of poor and distressed persons in this city, for whom there is no provision by law, the calls upon the charity of the ministers of the Gospel are necessarily frequent, and strong. It should be added, that the parochial duty of Quebec is, from a variety of circumstances, extremely laborious. "The labourer is worthy of his hire;" but in this instance the hire is altogether inadequate to the labour. It is such as no gentleman can possibly live upon.

The like observations apply, in a great measure, to Montreal. The expense of living there is at least equal, I believe, to that of living at Quebec; and the duty is even more laborious.

It is true that there is, in this case, an addition of from £75 to £85 a year to the Rector's income, by a subscription of the parishioners; but this can not be considered as permanent.

The present Rector, when incumbent at Three Rivers, had purchased, and commodiously fitted up a house for his residence there; and the inhabitants of Montreal, entertaining a strong desire that this gentleman might be fixed upon by Your Excellency to succeed their late Rector, and willing to make the exchange acceptable to him (in the case of Your Excellency's giving him the offer,) proposed to him, in consideration of the high rent of houses at Montreal, and in order to indemnify him for the loss and inconvenience that might arise from quitting his newly completed house and premises, to raise an annual sum equal to the rent of a house proper for the residence of their Rector. Whether this will be continued to his successors is, I think, at best doubtful.

Your Excellency will pardon the introduction of particulars, which appear necessary to the precise information that is required.

The income of the Rector of Montreal who certainly wants the assistance of a curate, is, therefore, in my apprehension, by no means equal to his maintenance or the proper remuneration of his labours.

I say nothing of any other resources by which he may be enabled properly to support his situation, because they are wholly foreign to the question. What I have stated above forms the whole amount (with the exception before made of surplice fees) of his receipts from his living.

As the congregation at Three Rivers is small, the duty proportionally light, and the expense of living much less than at Quebec or Montreal, the salary of £200 a year given by Government is, in my opinion, sufficient for the situation.

But the case is different at William Henry. The £100 from Government, with £50 from the Society, which forms

the whole of the incumbent's income, is not sufficient for his support. He is a young man of merit, of an academical education, a widower, with a young family. It will be difficult if not impossible for him to live upon his income. His congregation is larger, and his duty more considerable than that at Three Rivers.

I have indeed great reason to apprehend that this gentleman, as well as the Rectors of Quebec and Montreal, all of them exemplary in their conduct as Parish Priests, will not long continue to hold their livings, unless the Government, in its wisdom and bounty, should see fit to augment their temporary salaries.

It appears to me that the salary of the Evening Lecturer of Quebec is a sufficient reward for the duty he performs, and for those to which (in the case of the sickness or absence of other ministers) he is liable.

With respect to the establishments in the new settlements, I apprehend that the £100 from Government, with £50 from the Society, will be sufficient for the present. These gentlemen have some advantages (among their many discomforts) not possessed by the Clergy placed in towns, such as a glebe, a willingness of the people to build for them, or at least assist in building, a decent place of abode, to subscribe, as before mentioned, toward their support; to which may be added, that many expenses may be spared, in these situations, which cannot well be avoided in towns.

The difficulty lies in procuring Clergymen; and this difficulty originates in the want of an establishment which might offer proper gradations of emolument and station, as the reward of persevering and distinguished merit.

I have the honour to be,

With the greatest respect, Sir,

Your Excellency's most obedient and
faithful servant,

J. QUEBEC.

His Excellency the Governor.

EXTRACT OF A LETTER, DATED 23RD DECEMBER, 1804,
RESPECTING THE CHURCH ESTABLISHMENT IN
LOWER CANADA, BEARING THE INITIALS OF MR.
RYLAND, BUT NOT STATED TO WHOM ADDRESSED.

My creed, with regard to the Protestant Church establishment in these Provinces, is simply this : it ought to have as much *splendour* and as little *power* as possible ; I would therefore give to the Bishopric of Quebec, a Dean, a Chapter, and all the other ecclesiastical dignitaries necessary for show, and I would endow the See with sufficient lands to support this establishment in the most liberal manner ; but not one grain of civil power would I give to the Clergy, beyond the walls of their Churches and Church-yards. With regard to the particular case at Montreal, and indeed any case in these Provinces, where a Church shall be, to be built by private contribution, I think the Bishop will shew infinite indiscretion, if he wishes to do more than to *advise* and to *consecrate*. There is no power, and there never will be a power, of giving to the Clergy in this country the same rights, privileges, prerogatives and authority as they enjoy under the *Common Law*, that is, the *Law of Custom* to which the memory of man runneth not to the contrary in England, and I am sure the Bishop must be too well acquainted with the rise, progress and establishment of ecclesiastical authorities in times past, and too well aware of the light in which they are now universally considered, to imagine that a new creation of the kind can at this day take place in the British dominions without the sanction of Parliament, which sanction no man in his senses can suppose it possible to obtain.

I come now to what you mention concerning the Popish Clergy in this Province ; I call them *Popish* to distinguish them from the Clergy of the Established Church, and to express my contempt and detestation of a religion which sinks and debases the human mind, and which is a curse to every country where it prevails. This being my opinion, I have long since laid it down as a principle (which in my judgment no Governor of this Province ought to lose sight of for a moment,) by every possible means which

prudence can suggest, gradually to undermine the authority and influence of the Roman Catholic Priests. This great, this highest object that a Governor here can have, might I am confident, have been accomplished before now, and may by judicious management, be accomplished before ten years more shall have passed over. Whether it may be prudent at the present moment to permit the question of *parishes* to be brought forward, I am not so competent as you to determine. I should wish the Crown first of all to appoint a corporation, or trustees, for the purposes of public education, to vest in that corporation the Seminary and perhaps some other estates, and to allow out of these a handsome annual stipend to the persons holding by virtue of the King's (not the Pope's) letters patent, the appointments of Superintendent and Deputy Superintendent of the Romish Church. These measures would naturally facilitate a compliance with His Majesty's instructions, by which it is ordered "that no person in this Province shall have the cure of souls but by virtue of a license under the Governor's hand and seal;" and these instructions once followed up, the King's supremacy would be established, the authority of the Pope would be abolished, the country would become Protestant. We have been mad enough to allow a company of French rascals to deprive us for the moment of the means of accomplishing all this; but one prudent decisive step might rectify this absurdity. You may, from the few hints I have here dropped, form a judgment of my whole politico religious system. I am anxious that certain things should be done *before* the question of parishes is brought forward, and yet I do not know whether, by shewing to the heads of the Popish Clergy that they can hold no civil authority but through the medium of the Crown, it would not incline them the more readily to accept of such powers as the King in his wisdom might think fit to give them. In all events I would advise every Governor of this Province most scrupulously to follow the same line of conduct which has established so widely the authority of the Popes of Rome, to avail themselves of every advantage which can possibly occur, and never to give up an inch but with the certainty of gaining an ell.

H. W. R.

MINUTE OF A CONVERSATION BETWEEN THE REV.
M. PLESSIS, COADJUTOR, AND JONATHAN SEWELL,
ESQ., ATTORNEY GENERAL.

27th March, 1805.

P. I have spoken to the Governor respecting the present situation of our Church, and he has referred me to you on the subject.

A. G. The Governor has given me permission to explain my own private sentiments on the subject to you. What I think you have a right to ask; and I will answer candidly; but before I state what I have to say, let me observe that the object is of the last importance to your Church, and (I admit also) important to the Government. It is highly necessary for you to have the means of protecting your Church; to the Government to have a good understanding with the Ministers of a religion, which it has acknowledged and established by the Quebec Act, and at the same time essential to have them under its control. Let me also remark that the Government, having permitted the free exercise of the Roman Catholic religion, ought, I think, to avow its officers, but not, however, at the expense of the King's rights, or of the Established Church; you cannot expect nor ever obtain anything that is inconsistent with the rights of the Crown; nor can the Government ever allow to you what it denies to the Church of England.

P. Your position may be correct. The Government thinks the Bishop should act under the King's commission, and I see no objection to it.

A. G. My principle is this: I would not interfere with you in concerns purely spiritual, but in all that is temporal or mixed, I would subject you to the King's authority. There are difficulties I know on both sides, on one hand the Crown will never consent to your emancipation from its power, nor will it ever give you more than the rights of the Church of England; which have grown with the constitution, and whose power, restrained as it is, is highly serviceable to the general interests of the State. On the other hand, your Bishop will be loth to abandon what he conceives to be his right, I mean particularly his right of appointing to cures. Yet that he must do, for no such

power is vested in the Bishops of England, and if permitted would be highly dangerous.

P. You said conceives to be his right,—Why so?

A. G. The statute of the 1st of Elizabeth, made for the dominions which the Crown then had, or might thereafter acquire, explains of itself what I mean; but I shall not conceal my opinion. It is, that the Bishop has no power, and I shall be happy to show you the ground of this opinion at a future day, should anything arise out of this conversation.

P. I know the 1st of Elizabeth, but I confess I did not know that it was extended to the dominions which the Crown might acquire.

A. G. It certainly is. It was made at the time when England had most reason to be dissatisfied with the Roman Catholic religion, immediately after the death of Mary; and provided for the emancipation of all English subjects from the Papal power in all times and places.

P. Had Mary followed the advice of Cardinal Polus, the statute never would have been passed. She would not have disgraced herself and her religion by her cruelties.

A. G. We call him Cardinal Pole: whether he influenced her or not, Mary's conduct tended to establish firmly the reformation, and happily to blend the Church and State of England as they now are.

P. How are (curés) rectors appointed in England?

A. G. Where the King is Patron, and he is of all livings not in the possession of individuals, he presents to the Bishop, who, if there be no legal cause of refusal, inducts the clerk presented; if there be cause, he certifies that cause to the King, and if the King is satisfied he presents another; but if not, a writ issues to the Bishop requiring him to certify his cause of refusal into the King's Courts, who try the merits of the refusal, and declare it good or bad according to law: on this footing, it would place your Church.

P. The King then would become the collator to every benefice. The King of France was to consistorial offices, but not to cures.

A. G. He was to many cures, but not to all, because lay as well as ecclesiastical characters were the patrons.

P. The Bishop ought not to be obliged to certify his cause for refusal. In France where the patron was a layman, he was bound to present five clerks successively, before he was obliged to give any reason for refusing them ; when the sixth was presented, he was bound to assign his cause of refusal. If the patron was an ecclesiastic, he shewed cause on the presentation of the third.

A. G. Neither of these rules extend to the King. I think I can shew you that to your satisfaction. It would not be decent to refuse the presentation of the Sovereign without cause, nor ought he ever to be ashamed of expressing the reason of his refusal in any case.

P. Presentation by the Crown agrees with the Church of England's tenets, but not with ours. Bishops in France have always presented to the livings in their dioceses, and in the late concordat between the Sovereign Pontiff and Buonaparte, the right to present is recognized.

A. G. As to Buonaparte and the Pope, I say nothing : the former is, thank God, no example to us ; but I formally deny that it is contrary to your tenets to receive a presentation from the Crown. It was the daily practice in France, with respect not only to the Crown, but even of private patrons of all descriptions. I am no Catholic, but my professional duty has led me to weigh well this objection, according to your principles. My answer is very short : the Bishop ordains in the first instance, which qualifies the character, for the living. The Prelate and not the Crown makes the priest. The Crown selects, only from your own Priesthood, the person whom it thinks fit for the appointment, and if there be no cause of refusal, the Bishop invests him with everything necessary to enable him to perform the functions of the cure. The reciprocal selection of the person appointed by the Bishop in the first instance for the Priesthood, and of the Crown for the office in the second instance, preserves a just balance between both.

P. In our Church some orders qualify the individual to say Mass, others to confess, others far more.

A. G. I beg leave to interrupt you. When the Crown presents a person not admitted to orders sufficient for the appointment to which he is nominated, the Bishop has legal cause to refuse.

P. If the King presents in all cases, the Bishop will never have the means of advancing a faithful pastor.

A. G. The Bishop, once acknowledged, will become the head of his department: you know the attention that ever has been, and ever will be paid to the heads of departments in our Government. The Bishop's representation to the Governor in such a case would secure the promotion of the person he may wish to promote.

P. Your Bishop has certainly greater power. The Gazette lately informed us that he had presented Mr. Rudd, to a living at William Henry.

A. G. The Gazette is certainly the King's paper, and its contents generally to be relied on, and that, in this instance, is the case: Mr. Rudd has been appointed to William Henry, but it was the Governor and not the Bishop who presented him. Be assured that all livings in the Church of England in this Province are in the King's gift.

P. Governors do not always pay attention to the recommendations which they receive. I remember Mr. Chief Justice Osgoode complained heavily that Mr. Perrault had been appointed Prothonotary of the King's Bench, contrary to his recommendation.

A. G. Mr. Osgoode's complaint confirms what I say; the conduct observed towards him, was an exception to a general rule, and therefore he complained.*

P. Our general Church Government is aristocratic; but the Government of a Bishop in his diocese is monarchical. He has the power of enacting "règlemens" which must be obeyed; you will not, probably, admit this position.

A. G. The power of the Bishop extends to enforcing by his "règlemens" the general principles of Government, adopted by the Church. He cannot legislate; he can only enforce obedience to what is already enacted, to the canons, and to the municipal laws of the country.

P. That is true; but our canons are materially different from yours.

A. G. I cannot admit that. It was enacted in the reign of our Henry the 8th, that the canons then in force, and

* Not correct; the appointment is entirely with the Governor.—
(Remark by Mr. Ryland.)

not repugnant to the principles of the Reformation, should continue in force until a review of them should be made; which never was accomplished, so that the Church of England is now governed by the canons in force prior to the Reformation, which form the greater and most essential part of the canons that govern the Church of Rome.

P. You state incorrectly; you do not, for instance, acknowledge the canons enacted by the Council of Trent.

A. G. The Gallican Church certainly does not.

P. Yet they certainly were in force in France.

A. G. Yes, the greater part; because the Kings of France enacted them in their ordonnances. On this head you cannot suffer, for the ordonnances are, at this moment, component parts of the municipal law of Canada.

P. I once saw in the hands of Mr. Ryland,* the King's instructions, in which it is said, that no priest shall be removed from his cure unless he has been previously convicted, in some one of His Majesty's Courts, of felony. The difficulties would be less if the Bishop had a jurisdiction over his clergy, an "officialité," which, perhaps, never would be granted.

A. G. I have already requested you to understand, that in all that I say I speak my own private sentiments, and no more. With this remark, I have no hesitation to say, that the Government ought, in policy, to give the Bishop a jurisdiction over his clergy; subject always to the controlling power of the King's Bench, and to the operation of the writ of Prohibition, and an Appeal, to which the Courts of the Bishops in England are subject.

P. If the Writ of Prohibition is similar to the Appeal *comme d'abus* in France, not a shadow of authority will remain to the Bishop; every act of a Bishop was ultimately held in France to be an abuse of authority, and constantly set aside in the Parliaments.

A. G. The writ of Prohibition is very different from the Appeal *comme d'abus*; by that all questions were re-examined, as well in fact as in law. The writ of Prohibi-

* I have no recollection whatever of Mr. P.'s ever having seen the King's instructions in my hands. Nor, indeed, is there such an instruction as that here mentioned.—R.

tion is a prerogative writ, issued out of the King's Bench to prevent the Ecclesiastical and other inferior Courts from proceeding in causes instituted before them, in which they have no jurisdiction, or in which they proceed contrary to law. To what Court the Appeal must lay is a subject for consideration.

P. You know that all curés at present are removable at the pleasure of the Bishop. In the first establishment of the Province it was otherwise; but afterwards, upon the erection of the Seminary of Quebec, Monseigneur DeLaval got it fixed as they are at present. If the King presents, the curé ought to be removable at the Bishop's pleasure.

A. G. I think very differently. The spirit of our constitution grants every office during good behaviour; every rector is removable only for misconduct. It seems also highly expedient that a curé should know his parishioners well, and consider himself as fixed among them. In times of difficulty, a curé long resident among his flock can guide them better than a new comer. Mutual confidence is not the result of a short and transitory acquaintance, and without that, nothing effectual can be done by the pastor at such a moment. I will tell you frankly that curés, dependent upon the will of the Bishop, would be but little subject to the control of Government. If this was the case, the situation of the curé would not be enviable; nor could you expect that the better class of people would educate their sons for the Church. Your court of the Bishop would be perfectly unnecessary, and the presentation of the Crown an idle ceremony, if the Bishop could afterwards remove when he pleased.

P. The situation of a curé under such restrictions would be better than the situation of the Bishops of Canada at present. For myself, I have enough; I am in a cure which gives me all I want; but Bishop Denaud is in poverty, holding a living, and acting as a parish priest, in direct contradiction to the canons.

A. G. My mind on that subject is completely made up. The Government acknowledging your religion, and avowing its officers to be officers of the Crown, should provide for them as for all others. The Bishop should have enough to enable him to live in a splendor suitable to his rank; and the coadjutor also in proportion.

P. I do not wish to see the Bishop in splendor; but I wish to see him above want. I do not wish to see him in the Legislative or Executive Councils; but as an ecclesiastic, solely entitled to the rank which is due to him in society.

A. G. When I said splendor, I qualified the expression by calling it a splendor suitable to his rank. I mean by that, that his income should be that of a gentleman, and equal to a proper expenditure. There is, in fact, no such thing as splendor in Canada.

P. We mean the same thing, but there is great delicacy in this matter. If the Bishop was pensioned, and relinquished his right of nominating to the cures, the public would not hesitate to say that he had sold his Church.

A. G. To stop the public clamour is an useless attempt. If matters of state were to be staid for fear of popular abuse, Government would be able to do but very little; the governed but seldom approve. In our instance, if the matter is viewed as it ought to be viewed, the world must be satisfied that instead of relinquishing a right, you have, in fact, none to relinquish. You abandon the shadow and receive the substance. Surely this is a sufficient answer to any vulgar declamation against a Bishop who makes terms highly advantageous for his Church, and must be satisfactory to himself.

P. I do not know; it is his affair.

A. G. There is one idea which I wish to suggest, that if you ever mean to fix the officers of your Church upon any footing, this is the moment; the present Lieutenant Governor is a gentleman of most liberal principles; he has been long enough in the country to know all that relates to it, and is well disposed to serve you, is on the point of going to England, where this matter must be settled.

P. I am well aware of all this; whatever is to be done must be done now.

A. G. If I say what I ought not to say, you will excuse me; but I feel convinced that if you forego this opportunity it will never return. It is your interest to avail yourself of the present moment to make the best terms you can.

P. You cannot say anything which can either hurt or offend me ; I consider this as a free communication on both sides, for effecting a very important object, which, without an unreserved communication, can never be effected.

A. G. I have a word to say as to myself, before I leave you. It has been said that you or Bishop Denaud have declared me to be the enemy of your Church : you have heard what my sentiments are, do you see in them anything that is hostile ? What I have said I am ready to avow, when required, and to support as far as depends upon me. I have not the honor to think on all points as you do ; but I am not less a Christian than yourself ; to be the enemy of your Church, would make me the enemy of Christianity.

P. You are misinformed : the Bishop or myself may have said that an Attorney General would, if a bad man, be the enemy of our Church ; but never with reference to yourself : we have known you too long, and been too often assisted by you, to harbour such an opinion.

A. G. It would be painful to me if you did, and if such an idea has ever crossed your imagination, my present conduct will, I am sure, prevent your admitting it a second time. It is near your hour of dinner, and I will not take up any more of your time at this moment.

P. I am much obliged by the time you have bestowed upon me ; but I did not mean that you should have had the trouble of calling on me.

A. G. The trouble is nothing, and I shall, with great pleasure, wait upon you again, after you have reflected upon our conversation, at any time you may appoint.

P. Pardon me, I shall come to you.

A. G. That is as you please.

P. At what hour can I be sure of finding you at home ?

A. G. Every morning at 8 o'clock : we breakfast at that hour, and I shall be happy to see you whenever you may like to partake of it.

P. You are a more early man than Englishmen in general, though I believe we have many Canadians as fond of their bed as any people.

A. G. I shall then expect you.

P. You may : something must be done ; and though we may differ in the detail, I trust we shall not in the outline. If we do differ, we must be temperate, and in that case we shall ultimately agree. I am, however, but a subordinate officer ; I must first write to the Bishop, and when I know his sentiments I will see you again.

A. G. Certainly ; but keep in mind what I have said, that you never can obtain anything inconsistent with the prerogative of the Crown, nor any right that a Bishop of the Church of England does not possess.

TO THE LORD BISHOP OF QUEBEC, BY MR. RYLAND.

QUEBEC, 26th January, 1806.

MY DEAR LORD,—I did myself the honor of writing to Your Lordship, a few days ago, to inform you of the death of the Rev. Mr. Denaud, being apprehensive of the ill consequences that may attend a premature arrangement respecting his successor. I have, to the very utmost of my power, endeavored to impress Mr. President Dunn with a sense of what I conceive would be his proper line of conduct on this occasion ; and above all things, I have endeavored to dissuade him from a formal acknowledgment of Mr. Plessis, as Superintendent of the Romish Church, till His Majesty's pleasure respecting that situation shall be declared. I am firmly of opinion, that no evil, but, on the contrary, infinite advantage to His Majesty's service would result from adopting this line of conduct. With a view of enforcing my arguments on this head, I yesterday prevailed on Mr. Dunn to consult the Attorney General, whose opinion perfectly coincides with my own. But to my infinite grief, vexation and disappointment, the President has determined to admit Mr. Plessis to take the oaths in Council to-morrow, notwithstanding he is fully apprized of the proposal that is now under the consideration of His Majesty's ministers, for giving to the Crown its due influence and authority respecting ecclesiastical matters in this Province, and for defining and establishing, by a written instrument, the rights, powers, and prerogatives of the person to whom His Majesty may intrust the management of the affairs of

the Romish Church. After all, I see no reason why an order should not be immediately transmitted from home, prohibiting the assumption of the title of "Bishop of Quebec," by any prelate professing the religion of the Church of Rome, and further directing that no ecclesiastic be acknowledged as Superintendent of the Romish Church, but by virtue of a Commission under the great Seal of the Province, which Commission should contain such limitations and restrictions as His Majesty may please to direct.

But, however injurious it may be to admit Mr. Plessis at this moment, I imagine it will not be deemed expedient to set him aside, provided he is willing to subscribe to the terms proposed. It, nevertheless, appears to me, that it might greatly tend to promote the views of Government, were an Assistant Superintendent to be sent out from England, could a French emigrant Bishop be found, of a liberal mind, and approved loyalty, who would accept the situation on the terms offered by Government. This idea occurred to me after I closed my last letter to Your Lordship, and I have mentioned it to the Attorney General, who agrees with me in thinking that such a measure might greatly tend to establish the authority of the Crown, and to frustrate those petty intrigues and cabals, which family connexions, and a want of liberal principles, cannot but occasion here. I venture, therefore, to submit this thought to Your Lordship's better judgment. I am, at this moment, too much limited for time, to say an hundredth part of what I could wish to say on this subject and others nearly connected with it; but respecting which Your Lordship is already, in a great measure, acquainted with my sentiments. I must content myself, therefore, with barely adding, that it appears to me of infinite consequence to seize the present moment; that it may be long, very long, ere another equally propitious may occur, and that till the Crown shall exercise its just rights with regard to the patronage of the Romish Church in this country, its energies can never be called forth with effect in favor of the parent state.

I have the honor to be, &c.

MONDAY, 27th January.

I have kept my letter open for the purpose of informing Your Lordship how the matter has passed in Council, and I have now the mortification to add that my representation has been of no avail. Mr. D. having determined to admit Mr. P. to take and subscribe the oath as "Bishop of Quebec," and by his special direction, this title has been entered on the minutes.

The next, and concluding step, will be to appoint a coadjutor in the same *easy way*, which I observe Mr. Plessis is anxiously pressing for; and thus will the patronage of the Romish Church in this colony be completely derived from the same holy personage who crowned the pious Emperor of the French; for it is to be particularly remarked, that all the authority given by the Executive Government here, is considered by these people as a perfect nullity till confirmed by the Pope!

I am now going to write on this subject to Sir R. S. M., but I must earnestly request Your Lordship will not inform him of this letter, for reasons which your knowledge of certain circumstances renders it unnecessary for me to state. Mr. Y. will write both to Your Lordship and the Governor by this opportunity. I did not fail pointing out to Mr. Dunn a particular passage in a despatch, marked secret and separate, from the Duke of P., written in the month of January, 1801, and to which I hope Your Lordship will be able to have access.

MR. RYLAND TO THE LORD BISHOP OF QUEBEC.

QUEBEC, 3rd February, 1806.

MY DEAR LORD,—In my letter of the 26th January, I informed Your Lordship that, in consequence of the death of Mr. Denaud, the President had determined to admit the Rev. Mr. Plessis to take the oath of allegiance in Council as R. C. Bishop of Quebec, and I have now to mention that he has in like manner determined to admit the Rev. Mr. Panet to take the oath as Coadjutor, without either waiting for His Majesty's pleasure, or for any other

sanction whatsoever! This step, let whoever might be the object of his choice, I cannot but consider as in the highest degree injudicious, particularly as the knowledge which Mr. Plessis had of the measures that are in contemplation, affords so fair a pretext for delay, and for referring the appointment to His Majesty's decision. But where is the layman sufficiently free from vanity, who at seventy-three years of age would let slip an opportunity of making a Bishop? In the present instance I am truly sorry to observe that the impolicy of the choice is almost equal to that of filling up the appointment at all. Mr. Panet, I am told, is brother to the speaker, and Your Lordship knows enough of this man's character to judge of the consequences which may naturally be expected from giving such great additional influence to him and his connexions. If on the 24th June, 1792, according to an affidavit made in December, 1794, which I have ever since had in my possession, he felt himself bold enough publicly to declare at the Church door of Charlebourg, "Que s'il pouvait faire entrer Monsieur Barthelot dans la Chambre d'Assemblée, ils fouleraient les Anglais sous les pieds." What may he not now venture on, when he sees the whole patronage of the Romish Church throughout the Province, and the prodigious influence attending it, eventually vested in his own family! But it is said his brother is a mighty good sort of a man—a mighty good sort of a man!—Oh! those mighty good men, those very loyal subjects, so devoted to His Majesty's service, make my contempt and indignation rise to a height that almost chokes me! Your Lordship knows very well there is not a man to be found, from Mr. Speaker himself down to the fellow who holds a lucrative office in the Court of K. B., and who has lately sent his son to join the banditties of Mr. Bonaparte, who is not, when he thinks it will suit his purpose, brim full and running over with loyalty: but Your Lordship is too clear-sighted and too well acquainted with the real sentiments of these people to be cajoled by their fair speeches; would to heaven that this were the case with every man who may have it in his power either to support, or to compromise the interests of the Crown in this Province. But I must now beg leave in one word to inform Your Lordship, what, in my humble judgment, it

would be most advisable to do under the present circumstances; and that is *nothing*, nothing, unless it be thought expedient to set aside the appointment of Mr. Panet, by one from home, as suggested in my former letter; but let matters here take their course till another vacancy, or till the persons, now so unofficially acknowledged, find, as they sooner or later must do (unless the most impolitic interference imaginable takes place on the part of the King's Representative,) that they are unknown to His Majesty's Courts, and altogether destitute of any legal authority. When they are made sensible of this, in the only effectual way, I mean by common process of law, there is little doubt but they will gladly throw themselves on the bounty of the Crown, and thankfully accept the powers they are in want of upon the terms so long since prescribed in the Royal Instructions. But I may venture to predict that the object in contemplation will never be accomplished with any solid advantage to His Majesty's service, by coaxing and intriguing in which these gentlemen are infinitely better adepts than any representative of His Majesty can pretend to be.

I am, with sentiments of the highest esteem and respect.

H. W. R.

THE ATTORNEY GENERAL'S REPORT TO HIS EXCEL-
 LENCY THE LIEUTENANT GOVERNOR, RESPECTING
 THE CAUSE OF BERTRAND AND LAVERGNE, DATED
 22^D FEBRUARY, 1805.

*To His Excellency Sir Robert Shore Milnes, Baronet, Lieutenant
 Governor of the Province of Lower Canada, etc. etc.*

MAY IT PLEASE YOUR EXCELLENCY,—In obedience to the commands of Your Excellency, I have the honor to report the present state of the case of Bertrand and Lavergne.

Mr. Bertrand is the *curé* of the parish of Saint Antoine of the River des Loups, and Mr. Lavergne one of his parishioners.

The parish of Saint Antoine, which was erected in the year 1722 by His most Christian Majesty, was, in the year 1800, by the Commissioners appointed for the building and

reparation of Churches under the Ordonnance of 1789, and by the Titular Roman Catholic Bishop of Quebec, divided into two parishes, under the names of Saint Antoine and Saint Léon le Grand.

Mr. Lavergne happened to reside in that part which was supposed to become the new parish of Saint Léon, and was summoned by Mr. Bertrand, who was appointed by the Titular Roman Catholic Bishop to officiate as the *curé* of both parishes, to furnish a *pain béni* to the new church of Saint Léon, which he refused to do, alleging that there was no such parish.

Upon this refusal, Mr. Bertrand instituted his action in the Court of King's Bench for the District of Three Rivers, against Mr. Lavergne, to compel him to furnish and deliver the *pain béni* to him as *curé* of Saint Léon, which Lavergne again refused to do, alleging that he was a parishioner of the parish of Saint Antoine, that Mr. Bertrand was not the *curé* of Saint Léon, as he had alleged, and that there was no such parish as Saint Léon.

The Judgment of the Court of King's Bench for the District of Three Rivers being in favor of Mr. Bertrand, Mr. Lavergne brought up the cause to the Court of Appeals; and before it came on, to be there heard, filed a petition, stating that the Crown was materially interested in the decision of the question involved in his defence, viz: "Whether the right of erecting a new parish was not, by the laws of Canada, exclusively vested in the Crown," and therefore praying that the Attorney General might be made a party to the suit, which, after hearing counsel on both sides, the Court was pleased to order, and this is the present state of this cause.

All which, nevertheless, is very respectfully submitted, by Your Excellency's most humble and

Most obedient servant,

J. SEWELL,
Attorney General.

Quebec, 22nd February, 1805.

IN THE COURT OF APPEALS.

- PIERRE LAVERGNE, ET AL.,

Appellants ;

vs.

LAURENT BERTRAND, PIERRE LAMI, PIERRE
RIVARD AND CHARLES PAILLI,*Respondents ;*

AND

JONATHAN SEWELL, ESQUIRE, His Majesty's Attorney
General of and for this Province of Lower Canada,
for and on the behalf of our Sovereign Lord the King,
Intervening Party.

The said Attorney General for and on the behalf of our said Sovereign Lord the King, in obedience to the rule or order of this Honorable Court, in this cause made on the twenty-seventh day of April last, for *moyens d'intervention* and *conclusions*, saving nevertheless and reserving to our said Lord the King the benefit of all other *moyens d'intervention* and *conclusions* whatsoever, doth propound and allege as follows :

That there is no such parish as the pretended parish of Saint Léon le Grand, nor hath any such parish at any time been legally erected in this Province.

That by the law of the land the right of erecting parishes in this Province is vested solely and exclusively in our Sovereign Lord the King, and not in any other person or persons, body or bodies politic or corporate, lay or ecclesiastical.

That the office of the Roman Catholic Bishop of Quebec was annihilated, and all the powers inherent therein transferred to His Majesty by the capitulation of Quebec and Montreal, by the conquest of Canada, the treaty of peace of 10th February, 1763, the Statutes 26 Henry VIII, cap. 1, the 1 of Elizabeth, cap. 1, and 14 of George III, cap. 83, and that the said office hath not at any time since been by law re-established ; that no such office as Superintendent of the Romish Churches hath at any time existed in this Province, and that no person or persons hath or have been

at any time appointed by our Sovereign Lord the King, or under his authority, to such office.

That admitting, that in law there exists such a character as the Roman Catholic Bishop of Quebec, yet all the rights and powers of his office with respect to the erection of parishes, was taken away and destroyed by the thirty-first article of the capitulation of Montreal, dated the 8th of September, 1760, and have never been restored.

That the Ordinance made and passed by the Governor and Council of the late Province of Quebec in the 31st year of His Majesty's reign, intituled, "An Act or Ordinance concerning the building and repairing of churches, parsonage houses, and church-yards," is wholly and altogether null and void for the following among other reasons: because it is repugnant to the Statutes 26 Henry VIII, cap. 1, and 1 Elizabeth, cap. 1; because it is an Ordinance touching religion, and never received the assent of His Majesty; because it is an Ordinance which lays a tax or duty, to wit, an assessment on the inhabitants of the several parishes of this Province, for the building and repairing of churches, and for other purposes;

Because it abridges the King's supremacy and royal prerogative, is in express contradiction to the letter of the capitulation of Montreal, and consequently as it infringes upon the rights of the Crown, and the principles of the constitution of the colony, far exceeds the powers vested by the Quebec Act in the Governor and Legislative Council of Quebec;

Because it empowers the Titular Roman Catholic Bishop of Quebec to exercise in virtue of his office an authority derived from the See of Rome, which by the law of the land cannot be done in any of His Majesty's dominions, without the assent of the King, Lords and Commons of the Imperial Parliament of the United Kingdom of Great Britain and Ireland.

That (admitting the above mentioned Ordinance to be in force) it authorises the Governor of the Province, and the Titular Catholic Bishop of Quebec, with the sanction of the Crown, to make an extra parochial circuit of ground into a parish and no more, and does not authorize them to destroy, limit, or divide a parish already erected.

That the Ordinance aforesaid enacts that the same course shall be pursued as was requisite before the conquest, according to the laws and customs at that time in force and practice, and that such laws and customs required the sanction of the Crown to the erection of every parish by letters patent, and that such letters patent should thereafter be duly enregistered; that without such sanction so given and so enregistered, the erection of a parish was, by the said laws and customs at that time in force and practice, null and void, and that no such sanction hath been so given to the erection of the pretended parish of Saint Léon le Grand, or hath been so enregistered.

That there is no legal evidence whatever of the erection of the pretended parish of Saint Léon le Grand, of the erection of a living with cure of souls therein, or of the appointment of Laurent Bertrand to be the *curé* or rector thereof.

Therefore, inasmuch as the Judgment in this cause, given in the Court below, hath sanctioned an usurpation of the undoubted rights and prerogatives of the Crown, by declaring the supposed erection of the parish of Saint Léon le Grand by the Titular Roman Catholic Bishop of Quebec, and the Commissioners appointed for the erection and repairs of churches, parsonage houses, and church-yards, and the supposed nomination of Laurent Bertrand to be *curé* thereof, without a commission or appointment from His Majesty, to be valid in law, to the manifest prejudice of His Majesty, the said Attorney General humbly prays that the said Judgment of the Court below may be reversed.

J. SEWELL,
Attorney General.

Quebec, 11th November, 1806.

MEMORANDA IN THE HAND WRITING OF THE LATE
CHIEF JUSTICE SEWELL

In the year 1659, François DeLaval arrived in Canada with a *bull* from the Pope, appointing him Titular Bishop of Petree, and *vicaire apostolique* of New France. It does not appear that any regulations as to his power over the

curés had been made either by the Crown of France, or by the Pope, and the Bishop seems to have acted as universal rector of this Province, and to have considered the priests as his *vicaires* or curates.*

In 1663, the establishment of the Seminary of Quebec was confirmed by His most Christian Majesty ; and by the letters patent of confirmation, it was provided that all the livings in the country should be served by the priests of the Seminary ; that they should be appointed and removed at the pleasure of the Bishop, and for their support all the tithes in the country were vested in the Seminary.†

In 1667, the tithes of each particular parish was by a Royal Edict vested in the *curé* to the exclusion of the Seminary, and the *curé* was declared to be an incumbent for life. By the same Edict, the patronage of each church and living in the country was vested in the founder, and where the seignior was willing, (as well as others in his seigniorship,) to found a church, the patronage was declared to be his in preference to all others.‡

In 1699, another Royal Edict was issued, which after reciting, "That the inhabitants of New France had not availed themselves of the permission given to them by the Edict of 1667, that no churches had been founded, and that the 'natural' right of the Bishop to erect churches had been frustrated," enacts, "That the Bishop may erect (*faire bâtir*) churches of stone in all the parishes in which none are erected, and that the patronage of all such churches, should be vested in him."§

The Governor, (I have been often told,) interfered, before the conquest, in the appointment of the *curés*, notwithstanding this Edict, but in what way I have never been able to establish. It is, however, immaterial, because there is no Catholic Bishop of Quebec by law. His office became extinct at the conquest, and the patronage of the benefices formerly, and the Edict of the Bishop, is devolved to His Majesty.§

* Charlevoix, Vol. 1, p. 340.

† Edicts and Ordinances, Vol. 1, p. 27.

‡ Edicts and Ordinances, Vol. 1, p. 243 to 245.

§ Edicts and Ordinances, Vol. 1, p. 292.

§ Mariot's Report, p. 209.

TO THE LORD BISHOP OF QUEBEC, ACCOUNT OF SIR
JAMES CRAIG'S ARRIVAL IN CANADA.

QUEBEC, 17th October, 1807.

MY DEAR LORD,—I have had the happiness to receive Your Lordship's letter, by the Honorable and Rev. Mr. Stewart,* who appears to me to merit every eulogium your Lordship can bestow on him. I admire his zeal, I venerate his principles, and from my soul I wish him all possible success in the highly laudable mission he has undertaken. The President is on every account most heartily disposed to promote the object in view, and Your Lordship may be assured, that no endeavour of mine will be wanting to the same end; but you will know, long before this time, the great change that is about to take place here, and which, probably, will remove me from the only situation that can enable me to contribute to the accomplishment of Your Lordship's wishes in any matters of a public nature.

The Ministry has at length taken a most decisive step with respect to this court, and, at the same time, the wisest that could be adopted for its preservation and happiness, and, I hope and trust, that henceforward the Civil Government of this Province will never be separated from the military command. Your Lordship expresses a wish to know how we go on, and I am extremely sorry that time and circumstances will not permit of my giving you the information you desire. I can only say, that during the last twelve months I have had a more difficult and arduous duty to perform than has at any time been imposed upon me during the fourteen years preceding, and I should be very glad if Your Lordship could obtain an opportunity of ascertaining this matter by an inspection of the correspondence from home since the month of January last. I flatter myself, the Secretary of State will have received a series of despatches which, if read with attention, will not only give him a general and useful knowledge of the state of things here, but also a particular insight of certain leading characters, whose utmost endeavors have been exerted to defame and injure the President,† with a view of their own

* Afterwards Lord Bishop of the Diocese.

† Mr. Dunn.

private interests. I particularly allude to that contemptible animal the C. J.,* to his worthy *friend* and coadjutor, * * * (of whose treacherous, plausible and selfish character I have never had but one opinion,) and to that smooth-faced swindler whom the Lieutenant Governor has taken so affectionately by the hand, as the man, who, of all others, comes nearest in point of knowledge, virtue and ability to the great Tom of Boston. To these worthies, I must beg leave to add a pudding-headed commanding officer, who, if the President had given in to all his idle camelian projects, would have introduced utter confusion into the whole system, civil and military. I am sorry not to be at liberty to speak more clearly; but unless Your Lordship can have access to the correspondence in question, these matters must remain a kind of enigma till I have the happiness of seeing you again.† There is, however, a beloved friend of mine, who, I trust, arrived in England about the beginning of September, with three sweet children, and who can give Your Lordship some idea of these matters, should you be inclined to enquire concerning the Jesuits' Chapel, the system for the Indian Department, the Courts of Oyer and Terminer, the lease of the forges of St. Maurice, the plan for calling out the militia, &c., &c. To that friend, therefore, I must refer Your Lordship, and shall now only add that, thanks to the wisdom and vigilance of His Majesty's ministers, our apprehensions, embarrassments and difficulties, are all done away. The reinforcements so prudently sent from Halifax are arrived. We look only with anxiety for the Governor General and Commander in Chief, whose established fame assures us that a better choice could not have been made.

Should Your Lordship not have had an opportunity of honoring me with your recommendation to him, it is probable my services will be dispensed with, and in that case, I

* Chief Justice Alcock.

† A rather amusing account, it must be acknowledged, of some of his brother Bureaucrats, by the frank old Secretary, who, however, very probably knew them well. May it not be possible that some of our latter day Bureaucrats, alias Responsibles, are at this moment writing as much of their comrades, which, like this, some fifty years hence, may come to light, to the equal amusement and amazement of the world?

think, I may fairly hope to be indulged with leave of absence, to join my wife and children in the spring, the sight of whom, and of my dear native country, will infinitely more than compensate me for the loss of a place which requires a degree of exertion that I am less and less equal to every year. Should I remain as Secretary to General Craig, I have it in contemplation to lay before him a copy of my letter to Lord S., concerning ecclesiastical affairs; but this I shall not think it prudent to do till I have ascertained how far his sentiments, with respect to these subjects, may be expected to accord with my own.

22nd October.

The day after I wrote what goes before, I was awakened very early in the morning, by a message from Mr. Dunn, informing me he had received an express from Sir James Craig, and that the General was just at hand. I dressed myself immediately, and got on board the frigate with Mr. D.'s answer to the General's despatch, before the ship cast anchor, and before any other of the public functionaries knew she was at hand. I found the General, as he had stated, extremely ill, in bed; but he received me with great politeness, and, after enquiring concerning my appointment as Secretary, he begged I would do him the favor to remain in the same situation with him. I never, in my life, was more pleased with any person at first sight; and, although I saw him under every disadvantage, he struck me as a most amiable, intelligent, decided character. He landed about one o'clock, after which I saw him only for a minute, for he was so unwell, he earnestly desired to be left alone. Yet that curious beast, the C. J., after intruding himself with unparalleled assurance upon the General, before he landed, forced himself upon him again at the chateau, when everybody but the President had withdrawn, and most impudently sat the latter out. There is little doubt that he ventured on this proceeding for the purpose of recommending as Secretaries his intended father-in-law, * * * and a young man, named Branzon, or some such name, whom he brought out with him from England; but his scheme entirely failed, and his folly will fall on his own pate.

I have transacted business with the General every day since he landed ; but he has not yet been able to undergo the fatigue of being sworn in. Last night, at his particular request, I passed an hour with him and drew up a codicil to his will. This circumstance will tend to shew Your Lordship what kind of a man he is. He is, I will venture to say, precisely the man in every respect which this country wanted ; and I feel, both from public and private motives, a degree of grief at the thought of losing him which no words can express.

25th October.

I have the satisfaction to inform Your Lordship, that the Governor was sworn in yesterday, and that he went through the fatigue of the ceremony without feeling the worse for it. He had a good night, last night, and continues mending to-day. Oh ! if I could, if I could but flatter myself he would regain his health, I should become a new man, different, entirely different from what I have been during the last eight years ; I should look forward with infinite delight to the moment of reunion with my wife and children. I should almost forget that I am surrounded by scoundrels ; and, for the love of this one just and honorable man, I would bury in oblivion the mean jealousies of a contemptible self-sufficiency, and the false professions of smiling deceit. But should it please Almighty God to remove from us this incomparable man, and should there be a chance that the Civil Government of this Province is again to be disunited from the Military Command, I do hope Your Lordship will favor me with your utmost interest towards enabling me to make the exchange which Mrs. R. will tell you I have in contemplation.

I can now only add my most sincere good wishes for Your Lordship and family, and, trusting you will have the goodness to excuse the great freedom with which I write, I beg leave to subscribe myself, with sentiments of the highest respect and esteem,

My Lord,

Your Lordship's

Most devoted, and most faithful
humble servant,

H. W. R.

SIR J. H. CRAIG, K. B., TO LORD CASTLEREAGH.

QUEBEC, 15th August, 1808.

MY LORD,—I beg to call Your Lordship's attention to a circumstance which exists here, and which, if not remedied, may lead to serious inconveniences. I must confess to Your Lordship that it has been in some sort an omission that I have not adverted to it before, but the truth is, that nothing having occurred to draw my attention, I really was not aware of it, till, on taking into consideration the probable expediency of an early assembly of the Provincial Parliament, the vacancy of the office of Chief Justice naturally led to bring it to my view.

The circumstance to which I allude is a deficiency in the number of members that, by the Act of 31st George III, should compose the Legislative Council which, by that Act, is expressly stated shall not be less than fifteen, and at this moment there are only twelve members, viz: The Lord Bishop of Quebec, Mr. Dunn, Mr. P. R. St. Ours, Mr. Baby, Mr. Lanaudière, Mr. Boucherville, Mr. Caldwell, Mr. Monk, Sir J. Johnson, Bart., Mr. Lotbinière, Mr. Taschereau and Mr. Williams, leaving three vacancies to be filled up. These vacancies have been occasioned by the death of the late Chief Justice Alcock, by the death also of Mr. DeLongueuil, and by the continued absence of Sir George Pownall, which has exceeded two years, without having been signified to the Legislative Council that he had the permission required for that purpose.

The first named vacancy will, I take for granted, be filled by the person whom His Majesty may appoint to succeed him in his office. For the other two I beg leave to recommend John Richardson, Esq., and Mr. Charles de St. Ours. The first, one of the most respectable English merchants in the Province, whose best exertions have ever been at the disposal of His Majesty's Government; and who has been one of the most useful and intelligent members of the lower House, till this election, that he has found himself under the necessity of declining to stand from motives of private concern.

Mr. de St. Ours is a gentleman of most respectable

family, one of the ancient noblesse, and, I believe, warmly attached to His Majesty's Government.

In order to prevent the recurrence of a similar inconvenience, to which the very advanced age of several of the members render us extremely liable, I beg to add a recommendation that two additional members may be appointed, and to propose for the purpose, John Hale, Esq., the Deputy Paymaster General, a gentleman of high character, much respected, and perfectly acquainted with the Province, and Mr. Antoine J. Duchesnay, a gentleman of one of the old families of the Province, of respectable private character, and who has always manifested the best disposition toward His Majesty's service.

Your Lordship will, I am sure, excuse my requesting as early an attention to this subject as may be compatible with Your Lordship's conveniency, as having great doubts of the legality of a Parliament that might be held under the circumstances of a deficiency in the number of members required by the statute to compose the Legislative Council. I shall abstain from calling it together until I am honored with Your Lordship's commands.

While on this subject, I think it right to acquaint Your Lordship that, having found it necessary to supersede Mr. Craigie in his appointment as Deputy Commissary General I have not thought that it would be proper under such circumstances that we should meet together in the Executive Council, and I have, therefore, since the period of his supersession ceased to summons him. Mr. Craigie is an honorary member.

As the want of a sufficient number of members of this Board is attended with great inconvenience, particularly as to the sittings of the Court of Appeals, I beg to recommend Mr. Louis de Salabery to supply the deficiency occasioned by the circumstance that has occurred with respect to Mr. Craigie, as well as by the necessity that gentleman is under of going home for the settlement of his accounts. Mr. de Salabery is a very respectable Canadian gentleman, whose best services have always been at the disposal of His Majesty's Government. He is a member of the House of Assembly, and has been so in every Parliament since its establishment. He meant to have retired from it on the

present election, but was induced to stand again at my desire.

To Mr. de Salabery I beg to add a recommendation also of Mr. James Irvine, a merchant of high respectability and character. In this recommendation I have not only in view the replacing one of the vacancies occasioned by the decease of members, but it is my wish also to have in the Council a gentleman of mercantile knowledge, well used to business, who can assist us much in questions which may arise relating to that subject, as he can also be of material service in all matters of account on which there are constant references before the Board. Messrs. McGill and Richardson, who are both members of that description, reside at Montreal, and consequently can only give an occasional attendance.

I have the honor to be,

My Lord,

Your Lordship's most obedient humble servant,

J. H. CRAIG.

SIR J. H. CRAIG, K. B., TO LORD CASTLEREAGH, CONCERNING THE SYSTEM ADOPTED BY THE EXECUTIVE COUNCIL, WITH RESPECT TO GRANTS OF THE WASTE LANDS OF THE CROWN.

QUEBEC, 13th November, 1808.

MY LORD,—Having lately had under consideration the state of the public business that regards the granting of the waste lands, under His Majesty's instructions, it has been my wish, in which I have met with the concurrence of the Council, to simplify the proceedings hitherto held upon it, with the view of correcting the delays, and obviating the difficulties that have occurred, to the great inconvenience and embarrassment of individuals, some of whom have not yet been able to obtain their patents, although favorable reports on their applications have been made by the Council, years ago. I have reason to believe that these delays and difficulties have, at all times, but particularly lately, operated to the discouragement of no inconsiderable num-

ber of valuable settlers, Highland families, who, under the circumstances of the state of the public mind, and the violence of party disputes in the United States, had turned their views to this Province. One no small difficulty that occurs in the progress of this business has, I think, been raised by the Council themselves, who, as it appears to me, have misconceived the tenor of a correspondence between His Grace the Duke of Portland, at that time Secretary of State for the Colonial Department, and Lieutenant Governor Sir Robert Milnes, and have in consequence assumed as a principle in their proceedings a restriction that was not in His Grace's contemplation, and it is in the expectation of obtaining an explicit instruction on the subject that I do myself the honor of addressing Your Lordship.

In a letter from Sir Robert Milnes, to His Grace, of 4th November, 1800, Sir Robert, adverting to the proposed sale of the waste lands belonging to the Crown, with a view of forwarding His Majesty's most gracious intention of benefitting the Province by assigning over the interest of what they might produce, towards defraying the public expenses, proposed that the residue of those townships which had been actually surveyed and subdivided, and of which parts had already been granted, should be first put up to sale. And he had, in a prior letter, of 14th August, observed, that he would by no means recommend that grants which he proposed to be made to the members of the Executive Council, should be out of those residues; the reason of which appears to have been founded upon his expectation that they would be the most productive, and of the extreme importance to His Majesty's interests and those of the Province, that the highest prices possible should be obtained at the commencement. The Duke of Portland in his reply, dated 6th January, 1801, approves of Sir Robert's suggestion, and directs the necessary steps to be taken for carrying it into effect. This was accordingly done. The experiment was tried, and completely failed. Eighty thousand acres, in various lots, and different townships, were a second time, put up to auction in the year 1804; but no bidders offered, nor has there since appeared any encouragement for renewing the attempt.

Ever since this transaction, the majority of the Executive

Council have conceived that it having once been directed by His Majesty's Government that these residues should be put up to sale, they are thereby restricted from recommending that any part of them, under any circumstances, should be granted. To me, and to some others, it appears that the restriction was not otherwise intended, nor do we think that the Duke of Portland's letter, or Sir Robert Milnes' suggestion, the approbation of which is conveyed by His Grace's letter, will bear it out under any other construction, than as applied to the proposed experiment of putting them up to sale; that experiment having been tried and failed, we conceive the reasons under which the restriction was applied, for it is no where expressly stated, no longer to exist, and that, consequently, the Council are at the same liberty to use their discretion in granting those lands, that they were before it was made.

There can be no doubt of the superior benefit that must arise to the Province by settling complete townships in a collected and contiguous assemblage of inhabitants, instead of having the country covered with dispersed and scattered inhabitants, with intervening miles of desert or wood, admitting of no communication, and operating to the discouragement of all industry, by the impossibility of disposing of the produce of their land, beyond what is necessary for the consumption of those who live on it; this is obvious to all, and even the members of the Council, who think themselves under the restriction I have mentioned, regret it as an evil which they wish remedied.

I enclose, for Your Lordship's further information, a copy of a Report of a Committee of the whole Council on land affairs, alluding to the subject, which is dated 9th June, 1807.

I have the honor to be,

My Lord,

Your Lordship's most obedient, humble servant,

J. H. CRAIG.



SIR J. H. CRAIG, K. B., TO THE EARL OF LIVERPOOL.

QUEBEC, 24th March, 1810.

MY LORD,—Under the extreme pressure of public business which at this moment weighs upon me, I should perhaps delay trespassing upon Your Lordship, with a Report which must necessarily be less perfect than I could wish it, were it not that I fear lest an alarm may take its rise from the perhaps exaggerated accounts of the State of this Colony, which will reach home by the same opportunity.

A violent and numerous democratic party has long been busily employed in sowing the seeds of their pernicious principles among the truly ignorant and credulous people, and as unfortunately, no sufficient means of counteraction have been found, they have succeeded in disseminating among them a strong spirit of jealousy, disaffection and mistrust of His Majesty's Government.

These have at length shown themselves in very many, indeed I may almost say, in every part of the Colony, mixed with a considerable degree of animosity towards the English part of their fellow subjects, and that with respect to the former, in so open and daring a manner, that it became indispensably necessary to take decisive steps to avert the evil that was threatened by it.

I am singularly happy in feeling myself warranted in giving Your Lordship my opinion that those steps have been adopted precisely at the most favourable moment, when the mischief is sufficiently obvious to arouse the exertions of the well disposed, at the same time that it is not so far advanced as to give reason to doubt the effect of these exertions in support of the energy of Government.

With the advice of the Executive Council, I have seized the Press that was employed in the service of the party, and by the same advice, and under their warrant, three of their principal leaders, Messrs. Bedard, Blanchet, and Taschereau, together with the printer, have been arrested and thrown into prison, on a charge of treasonable practices; fortunately the Act for the better security of His Majesty's Government, which is in part an Act for the suspension of the *Habeas Corpus*, was one of the only two that were passed last Session, and it is under the authority vested in the

Executive Council by that Act, that they have been apprehended.

I have issued a proclamation on the occasion, a copy of which I enclose. Here it has produced a very considerable effect among those who are not determined in their principles of hostility to the Government, but who were doubtful and wavering under the misrepresentations and seditious arguments employed to seduce them; a very singular degree of difficulty prevails in this country as to the dispensing of proclamations, so as to be generally known; every precaution, however, has been used to diffuse this as widely as possible.

As these events have taken place only within these few days, and as there has not been time for the return of accounts from the country as to the effect they may produce on the public mind, in those parts, it is impossible for me to do more than to assure Your Lordship, that I am not under any apprehension as to any serious consequences ensuing. The mischief, with respect to the elections which are generally on the point of taking place, is, I fear, done, and the same set of inveterate democrats will be re-chosen before the people can be disabused, but I believe even they will be more guarded in their future violence. With regard to the people at large, I have every confidence that they will be brought back to a just sense of the happiness they have hitherto enjoyed, and become sensible of the folly, as well as the wickedness, of suffering themselves to be led to a conduct by which that happiness may be endangered.

I have the honor to be with great respect,

My Lord,

Your Lordship's, most obedient and very
humble servant,

J. H. CRAIG.

SIR J. H. CRAIG, K. B., TO THE EARL OF LIVERPOOL

QUEBEC, 30th *March*, 1810.

MY LORD,—In the despatch which I did myself the honor of writing to Your Lordship on the 5th instant, I acquaint-

ted you with my having again found myself under the necessity of dissolving the Provincial Parliament. It is now my duty to enter into that detail on the subject which may be necessary for His Majesty's information. Referring Your Lordship to my despatch No. 59, of 5th June, 1809, with the view of directing Your Lordship's attention more fully to the spirit that characterizes these Assemblies, I should avoid trespassing upon Your Lordship's time by any otherwise adverting to the dissolution of the former Parliament, were it not that I confess I feel a little anxiety to be permitted to explain myself something further on the subject, under the presumption that I have been unfortunate in that respect, and that in consequence (I judge from His Lordship's letters of 7th September) I have not been quite understood by Your Lordship's predecessor in the Department you now hold.

My view in the step I took, of dissolving that Parliament, was the hope of getting a better one, and in this hope it was indispensably necessary that the people who were to elect the new Parliament should clearly understand the grounds upon which they were called on so soon again to exercise that right.

It was only by setting before them the conduct which had occasioned the dissolution that I could expect they should feel a necessity of choosing other members. In England such is the state of public information, so generally is the knowledge of every event that occurs diffused over the country; and so well are the people accustomed to reason upon these events, that, should His Majesty feel himself called on to exert his prerogative in the dissolution of a Parliament, no necessity would exist for his assigning his reasons for so doing: they would be perfectly understood; they would be freely discussed by all ranks, and all parties; and, though faction might endeavour to pervert the judgment of the people upon them, it could not however, alter their true nature. Here, the case is totally different. So universal and profound a degree of ignorance pervades the whole country, that no one reads; for it is not one in a thousand who can read. The people know nothing but what they are told, and while the activity which so truly characterises the exertions of democracy

has established an orator in every parish, Government remains without the possibility of communicating with them. Some faint idea, however, exists among them of the importance of the Governor's speech. There is generally a sort of anxious eagerness to hear what he says to Parliament, and of this it was my desire to take advantage, to convey to them the information I wished them to have. On these grounds I penned my speech. It was strong, I allow; but it was calculated for the understanding of the people for whom it was in fact intended. With them your language must be most direct and plain, or it will not be understood; and it is only by being so that any hopes can be entertained of its not being distorted by the orators who will comment upon it. With regard to the House itself, I cannot conceive that any right or privilege of theirs was invaded. I view the addressing a House to whose existence I am putting a period, in a very different light from the doing so while they are in activity. Nothing that I can then say can have any influence on a body whose power is at an end; but in either case, if I am to speak, surely the House in the exercise, or in the claim of a supposed privilege, are not to point out to me the terms in which I am to do it. I must hold the language that His Majesty's interests appear to me to require that I should hold. It may offend them, but that is my consideration. I am to calculate the inconveniences that may result from their being offended, and whether these may be more detrimental to His Majesty's interest than may be the advantage I look for to them from the conduct I am pursuing, and if the same members are re-elected we shall probably meet with some asperity on both sides; but it was in the express expectation that it would have freed me from the necessity of meeting the same members again that I adopted that line; the firm footing on which the leading demagogues had established their influence was not then foreseen, nor was it by any means suspected to be so universal as it was found to be; and it is even now thought that had the elections ensued immediately, the effect I expected would have followed. Unfortunately it was judged more advisable to wait till the little ferment that might be supposed to exist should be over, and the result was the direct contrary.

Not only the same members were generally re-elected, but so successful had they been in their exertions that their power was increased by the introduction of several more of the same stamp.

This was the situation in which I met the new Parliament on the 29th January. In the meantime I had received Lord Castlereagh's letter of _____ by which I was authorized to assent to an Act for the exclusion of the Judges, if I thought it proper to do so. My own opinion always went decidedly with the measure. In this country, in all civil suits, the Judges act alone without the intervention of a jury, except in some particular cases where the party desire a jury. They are consequently Judges of the fact as well as of the law, and much depends upon their discretion, especially in the inferior and county courts, where one Judge sits alone. The inference with respect to the impression that may be on the minds of an ignorant people when they see a Judge with his cap in his hands soliciting a favour from them, is too obvious to require that I should remark upon it. This reasoning weighed with very many to be of the same opinion with me; but the democratic party had taken it into their heads that the retaining the eligibility of the Judges was an object of importance to Government: they had, therefore, during the recess, most assiduously employed themselves in representing the exclusion of them as a measure on which the salvation of the country almost depended, and that it was opposed by Government for sinister views detrimental to the public good. It has in consequence become a sort of clamour in the country. Finding thus that the measure was eagerly looked for, and thinking it myself a very proper one, I did not imagine there would be any objection to my going a step beyond the permission given me by Lord Castlereagh's instructions; and, instead of waiting to assent to the Bill which might be presented to me, when it would be considered as a triumph on their part, and would be represented as an instance of the efficacy of the power possessed by the Assembly which had forced Government to accede to their measures for the public advantage, I thought it better to anticipate their views, and to take the credit of the measure to His Majesty's Government, by myself recommending it,

and announcing the permission I had received to accede to it. This certainly had a great effect on the public mind, though it failed in its probable consequence that might have been looked for, in a return of confidence and harmony on the part of the House. There was a moment, indeed, in which I thought this might have been expected, although the chagrin that was evident in the party at finding themselves anticipated, led them to begin rather ungraciously by one of them bringing in a Bill for disqualifying the Judges before my speech was reported by the Speaker. I attributed this, however, to its true cause, and I understood that their general language and expressions of approbation were such that, contrary to the suggestions of the best informed of my friends, I really considered myself warranted in hoping that we should have gone on smoothly: this hope, however, did not last long. They immediately passed a resolution which alluded to the manner in which I had dissolved the last Parliament. It was as follows: "That every attempt of the Executive Government and of the other branches of the Legislature against this House, whether in dictating or censuring its proceedings, or in approving the conduct of one part of its members and disapproving the conduct of the other, is a violation of the statute by which this House is constituted; a breach of the privileges of this House against which it cannot forbear objecting, and a dangerous attempt upon the rights and the liberties of His Majesty's subjects in this Province."

As this was an abstract proposition, equally applying to the other branches of the Legislature; as it was not presented to me, and was not followed up by any other proceedings, I thought myself at liberty to pass it over without notice; and I considered it as a promising instance of their moderation, that their paper, which never yet failed in any opportunity that presented itself for exciting disaffection or sedition, did not publish this resolution.

Proceeding from this in the Bill for incapacitating the Judges, they included in it the provincial Judge of the inferior District of Gaspé, and they made it a part of the Bill, that Judges now belonging to the House should be incapable of sitting or voting from the passing of the Act.

The Bill, thus framed, went up to the Legislative Council, who amended it, by omitting both these clauses, and returned it to the lower House.

The extending the ineligibility to the Judge of Gaspé had never been in contemplation, and was adopted now solely because he was considered as an officer of Government, while the latter measure of immediate expulsion of those Judges who had seats, was taken upon the mere grounds of personal hostility toward Judge De Bonne, who was the only Judge in that predicament. For the indecency of this they had the less excuse, because I had taken care they should be informed; indeed, I had myself told the Speaker it was my intention to recommend Mr. De Bonne to His Majesty, and to request that He would be graciously pleased to raise him to the Upper House.

The House, upon receiving the Bill as amended by the Council burst into a flame of resentment, and apparent indignation. The language was violent, and went the length of asserting that the Council had gone beyond its powers; they however proceeded to take the amendments into consideration; in which they appear to have given up the exclusion of the Judge of Gaspé, but to have persisted in the clause for the immediate expulsion of such Judges as might be then in the House.

Pending, however, the discussion of these points, a Monsieur Bourdages, one of the most marked demagogues of the set, had come down from the country, and taken his seat, and his arrival seems to have added considerably to the violence of their measures. There are three Bills which are passed annually, one for making a temporary provision for the regulation of the trade between this Province and the United States; another for the better preservation of His Majesty's Government; and the third commonly called the Alien Act.

The two first of these Bills had actually passed both Houses before the arrival of Mr. Bourdages; but upon the third being brought in, that gentleman made a motion for deferring the second reading till the 20th March, which motion passed as usual.

The Judges' Bill was returned with the amendments, from the Council, on Friday the 23rd February, and on the same

day the House went into Committee to consider of those amendments, reported progress, and asked leave to sit again on the morrow. On that day, however, previous to the Speaker leaving the chair, Mr. Bourdages made a motion in the following words "That P. A. De Bonne being "one of the Judges of the Court of King's Bench, cannot "sit or vote in this House;" this motion passed by nineteen votes to sixteen who were against it.

Mr. Bourdages's second motion followed of course, and passed by the same majority. It was, "That the seat of "P. A. De Bonne, one of the members for the County of "Quebec is vacant." The House then went into committee on the amendments made by the Council, and reported to the House as I have already observed.

Upon the number who appear on each side on this occasion, and by which it would seem that the majority of the democratic party was only three, I must observe that although that question was not expected, yet it so happened that the whole strength of the party who acts against them chanced to be present; they could not have mustered another vote, and they amounted only to thirteen, who could be depended upon; three of those who usually voted with the party joined them on that occasion, which made out their sixteen.

On Monday morning I assembled the Executive Council, and asked their advice, when the opinions were unanimous as to the necessity of an immediate dissolution. I had previously prepared what I thought it right to say on the supposition of that measure being adopted, and I submitted it to a very minute scrutiny which it underwent, in the wish of combining the two objects of moderation towards the House, and the information which it was on all hands agreed to be expedient to convey to the country through that medium which, I must repeat, is the only channel of communication that exists between the Government and the people. The Parliament was prorogued on that day, and dissolved by proclamation the following Thursday.

During these proceedings with relation to the Judges, two other objects had engaged the attention of the House: the first I shall mention, though not the most important, was the appointment of an agent to reside in London to

transact the business of the Colony. This was with the view of providing a more direct communication, as they supposed would be produced by it between them and His Majesty's Ministers at home than they could have through the Governor here.

This Bill, however, was of no consequence; I knew very well that the Legislative Council saw the attempt in its true light, and would never pass it; and the House had not yet come quite to the length of assuming the power of appointing an agent for themselves only.

The other object which they had in view was, taking upon themselves the payment of the Civil expenditure of the Province. This has been a favorite object with them for some years past, but they have been hitherto at a loss how to bring it about, without laying a direct tax on the country, which they have never dared to attempt. The present was thought a favorable opportunity, on account of the expiring of the Act for raising the Fund for building the Gaols of Quebec and Montreal which will take place the 25th of March next, and by the renewal of which they proposed to obtain the necessary money, or nearly so, while the complete ascendancy which they have acquired over the minds of their countrymen, the present state of Europe, on which they unquestionably bear a constant eye, and the consequent apprehension of any possible disturbance in this country, which they suppose to exist on the part of Government, led them to believe they could carry any thing through which they chose to attempt, in consequence of the power and influence which, by this means, they expected to obtain. Your Lordship will be enabled to form a more complete judgment on this very important point, as I shall have occasion to transmit by this opportunity a statement of the expense and of the revenue under all the various circumstances under which they stand. Here it may be sufficient to observe, that the estimate of the former, which I was prepared to lay before the House according to its desire, amounts to £45,475 15s. 10d. and the amount of the collection of the last year of the duties specially appropriated towards defraying that expense was £27,645 1s. 10½d. leaving a balance which they would have had to provide for of about £17,830.

The proceedings of the House on this point were irregular in the extreme. Their object was perfectly understood; they imagined that by taking upon themselves the payment of the expense in question, they should do away the appropriation and perpetuity of the duties now established by their own Acts, and that by a new Act, or rather by a vote of the House, for I really believe they expected to carry it through by that means only, without admitting of the participation of the other branches of the Legislature, they should grant the whole only from year to year, assuming at the same time the entire control and management of the payment of all the officers of Government, of which they avowed their intention to regulate the amount on principles of more strict economy; that these in future would have therefore to look up to them, who by that means would become the complete masters of the country.

In pursuance of this object, they began by a vote that "the House of Assembly ought to vote the necessary sums for defraying the civil expenses of the Government of this Province;" and, almost immediately after, voted addresses to His Majesty and to the two Houses of the Imperial Parliament separately, in which they say "that *this House hath*, in the present Session *taken upon itself* all the Civil "expenses of the Government of this Province."

In all this no notice whatever was taken of the Legislative Council, every thing seemed to be studiously pointed out as the work of the House of Assembly only, and so eager were they to accomplish their point, that they had actually voted that their constituents should pay a large sum of money without having taken one step to ascertain what the amount of that sum would be. They had neither the estimate of the expenditure before them (for Your Lordship will observe that their address to me to obtain that estimate was subsequent to the vote they had passed that they would pay its amount) nor had they any return of the collection of the duties on which they depended for that payment. These irregularities were not, however, of any consequence, and, although under the advice of the Executive Council, I thought myself obliged to decline forwarding their addresses to the two Houses of the Imperial Parliament, I should not have thought myself warranted

in any otherwise interfering in the business until it had come before me in its regular progress, and I had prepared to be laid before them the estimate which they had required. I was thus waiting to see the shape in which it would come before me when their proceedings relative to the expulsion of the Judges put me under the necessity of closing the Session.

The grounds upon which I adopted the resolution of again dissolving the Parliament, and upon which His Majesty's Executive Council supported me in my opinion as to the necessity of doing so, are sufficiently marked in my speech on the occasion, a copy of which is before Your Lordship. We were of opinion that the House assumed to itself a power which not only was not warranted, but a prohibition of which was clearly implied by an Act of the Imperial Parliament; and I said truly in my Speech what I felt in my mind, when I informed them that I dare not render myself the partaker in such a step.

These, my Lord, were the constitutional grounds upon which I acted; but, considering the subject in a more extended view of political expediency, I have no hesitation in assuring Your Lordship that I felt the strongest urgency for taking an immediate stand against the strides of democratical influence, which were daily becoming more apparent, and of which the House of Assembly was the direct organ. It appeared to me that it could only gather strength by any delay in the means to check its progress; nor was it possible for me to foresee the lengths to which it might not go if encouraged by our acquiescence in the present attempt.

This dissolution seemed to meet the general approbation of all thinking people. Addresses in very strong terms were presented to me from the Cities of Quebec and Montreal, from Three Rivers, William Henry, and from some of the Counties, and it was thought better this time, to take advantage of what appeared to be the first impression, and to bring on the new Elections as early as the necessary forms would admit of. Even the leaders of the party seemed at first to be staggered at a measure which they certainly thought, and openly said, I dare not undertake, and many of their followers were known to express

themselves as wavering in their opinion as to the propriety of the lengths to which they had been led. It was soon, however, seen, that they had recovered themselves, and had resumed more than their usual activity; every pains was taken to seduce the public mind; the most false and scandalous reports were assiduously propagated, and the most seditious and inflammatory publications were universally spread through the Province, which were read and commented upon by their agents in every Parish.

In these, Government was grossly misrepresented, and vilified; the administration of Justice brought into contempt, and a spirit of dissatisfaction, distrust, and alienation excited, tending to the most alarming consequences; such as it became, at last, impossible any longer to disregard, and imperiously to call for the intervention of the Executive power. For the measures that have ensued in consequence of this necessity, I refer Your Lordship to my despatch, No 5, a duplicate of which accompanies this.

I have the honor to be,

&c. &c. &c.

J. H. CRAIG.

**MR. CHIEF JUSTICE MONK'S OPINION RELATIVE TO THE
POWER AND RIGHT OF ERECTING PARISHES IN THE
PROVINCE OF LOWER CANADA.**

MONTREAL, 10th August, 1810.

SIR,—I have the honor to submit to Your Excellency my opinion upon the three several questions you have done me the honor to command.

In this opinion I have had occasion to state part of His Majesty's Instructions in the year 1775, to Governor Carleton, at the period of passing the Quebec Act; and beg leave to say, they were made public, and printed, by order of the House of Commons at the period of passing the Canada Act.

Question 1.—In whom is the power of erecting Protestant Parishes in Canada, and what are the legal means by which such parishes may be erected?

Answer.—This power I conceive to be legally vested in His Majesty. And I am induced to believe, from a necessary implication upon the 38th and 39th sections of the statute of the 31 of the King, chap. 31, and the powers granted to Your Excellency by His Majesty's Royal Letters Patent under the Great Seal of England, is conferred to Your Excellency, to be exercised by Letters Patent under the Great Seal of the Province upon advice of the Executive Council.

Question 2.—Is there a distinction with respect to the power of erecting them, between Protestant and Roman Catholic parishes; and if there is, in whom does the power rest of erecting the latter?

Answer.—The only distinction that in appearance of law can be offered in the case of Roman Catholic parishes, arises out of an ordinance passed by the Governor and Legislative Council of this Province, in the 31st year of His Majesty's reign, intituled "An Act or Ordinance concerning the building and repairing of Churches, parsonage houses and Church yards."

If this ordinance should be considered as a part of the laws of this Province, it would most assuredly create a very great distinction between the erecting a Protestant and a Roman Catholic parish. To create a parish of the first description, there requires only the advice of His Majesty's Executive Council, previous to Your Excellency's exercise of the Royal prerogative, by Letters Patent under the great seal of the Province. But to erect a parish of the latter description, a course of proceeding must be had, through the interposition of "the bishop or superintendent of the Romish Churches for the time being," and this may be, in a considerable degree, considered as a limitation to the Royal prerogative, and the legal supremacy of the crown, over all matters spiritual, ecclesiastical and temporal, within this part of His Majesty's Dominions.

This point of Your Excellency's reference, and the great importance of a legal question in His Majesty's Courts, upon the legality or nullity of the above ordinance impresses very considerable solicitude, in treating a subject of so much delicacy.

At passing the Quebec Act, a restriction was created by the 15th Section. "That no ordinance *touching religion* shall be of any force or effect until the same shall have received His Majesty's approbation."

And the Royal Instructions to the then Governor, respecting the due execution of the said Act, were made in the very terms of the above section; to which was added a general direction, in the following words: "That all such ordinances"—to be made by the Governor with the assent of the Legislative Council—"be transmitted by you within six months after their passing, or sooner, if opportunity offers, to us, by one of our principal Secretaries of State, and duplicates thereof to our commissioners for trade and plantations, for their information; *That they be abstracted in the margins, and accompanied with very full and particular observations upon each of them, that is to say, whether the same is introductive to a new law, or does repeal a law then before in being; and you are also to transmit in the fullest manner the reasons and occasions for enacting such ordinances, together with fair copies of the journals of the proceedings of the Council, which you are to require from the clerk of the said Council.*"

It is scarcely possible to suppose either that His Excellency the then Governor, did not clearly comprehend the extent of the legal operation the ordinance was intended to produce; and that it most essentially affected ecclesiastical and temporal rights, and was a law within the provisions of the 15th Section of the Quebec Act: nor is it to be supposed, that His Excellency, (assisted by a Chief Justice of the distinguished legal abilities of the late Mr. Smith,) could have failed, in due obedience to the Royal Instructions above stated, to have amply exposed the very great alterations that ordinance was in its operation to produce upon the actual laws of the Province, His Majesty's just and essential supremacy over the ecclesiastical interest of His Majesty's Government, and peculiarly those in which the Roman Catholic church was to be called into a participation with the crown, even by a restrictive power, over the execution of the laws of the Realm. And I am the more impressed with this belief, when I consider other highly important parts of the Royal Instructions "upon matters

of ecclesiastical concern," that most emphatically enjoined upon the Governor, a strict exertion of the King's supremacy, to the exclusion of every power of the Church of Rome, by any of its ministers in this Province, not absolutely requisite for the exercise of a tolerated worship, which was alone declared to be the boundary of political or legal claims, by His Majesty's Roman Catholic subjects.

I beg leave further to observe that the ordinance above cited could not in any instance be carried into effect, but through the sanction of the Governor; or persons by him legally delegated for that purpose. And I must presume, upon a measure of so much importance, that His Excellency neither personally nor by any delegated authority, (until the Royal approbation of the ordinance had been previously obtained) granted his sanction to the execution of a law, that in my humble opinion was made, if not in direct terms, yet in its consequences, repugnant to Acts of Parliament and the Royal Instructions.* Nor do I confine my grounds of belief solely to the circumstances above stated. A provincial statute passed in the 34th year of His Majesty's reign "for the division of the Province of Lower Canada for amending the Judicature thereof, and for repealing certain laws therein mentioned."

In the 8th Section of that Act, it is expressly declared that the ordinance above cited, of the 31 of His Majesty, chap. 6, "For building and repairing churches, &c.," shall not be by the said statute revoked or repealed; which carries, at least, a legal implication of Legislative approbation; for it is to be observed, that this Provincial Statute was reserved in the terms of the Canada Act, chap. 31, sec. 22, for His Majesty's approbation; and the Royal approbation was granted and publicly announced, in the terms of the law, by the Governor, Lord Dorchester's proclamation, and messages to the two branches of the Provincial Parliament. Nor have the arguments for His Majesty's presumed sanction to the above ordinance rested here; the Governor or Lieut. Governor, delegated His Majesty's power, vested in the Governor, to commissioners to carry the ordinance into effect; and pro-

* 25 and 26 Hen. 8; 1 Eliz. ch. 1; 7 and 8 Will. 3, ch. 22; 14 Geo. 3 ch. 88, S. 15, 18; the Royal Instructions to Gov. Carleton, 3rd January, 1775.

ceedings have been had thereon, and ratified by a course of legal controversy in His Majesty's Courts, to effectuate the powers granted to the "Roman Catholic Bishop, or superintendent of the Romish churches" by the said ordinance. *

Whatever may be my opinion upon the legality or the nullity of the ordinance above stated, I cannot forbear to represent to Your Excellency that many endeavors have been made to draw the question into legal discussion and judicial determination; and that on all such occasions, I have perceived those attempts to have created very considerable agitation and reasonings, tending to excite the public mind in a manner highly prejudicial to the Royal prerogative, and the constitutional Government of this Colony. Nor can I entertain a doubt that any thing less than His Majesty's direct and express interposition upon the subject, would prevent the prejudicial agitation which may, in my mind, be expected through the medium of various sources, that from the late disturbed state of the Colony, Your Excellency must but too clearly comprehend. And I beg leave to add, that Your Excellency must fully perceive the serious import of a legal controversy, so novel in His Majesty's Colonial Courts of Law; and upon a question that may involve so extensive and so animated an interest, in support of an Act of the Provincial Legislature, that by Roman Catholic subjects may be represented as indispensably requisite to the powers of "their Bishop," and the free exercise of their religion, and that has subsisted and been acted upon, under circumstances so peculiar, and for so long a period of time; and the very great import of a colonial judicial determination—if such should be made—that this Act of the Governor and Legislative Council, so circumstanced, was a nullity in law.

Upon the latter part of Your Excellency's second question, I have to submit to Your Excellency, that under the best consideration I have as yet been able to bestow on the subject, I am induced to think that His Majesty's supremacy in all matters ecclesiastical and spiritual—and of which the erecting of parishes I consider to be one—has not been revoked by the ordinances of the Governor and

* Vide Case in Appeal of Lavergne vs. Bertrand, Curé, *et alia*.

Legislative Council above stated, or in other words that that ordinance legally could not abrogate, limit or restrain, the highly important rights of the Crown, on the subject it most evidently was penned to produce; consequently, that the prerogative of the Crown to create Roman Catholic parishes, remains with His Majesty, to be legally exercised in the same manner as in respect to Protestant parishes.

Question 3.—"In the case of a Roman Catholic parish legally erected by the ordinance of 1722, and the desire of inhabitants of contiguous concessions to be annexed, and become part of such parish, what is the legal course to be followed to effect such annexation?"

Answer.—I perceive no sufficient legal distinctions to be taken between erecting a new parish, or enlarging one at present established under the ordinance of 1722, to vary the course of proceeding. I am therefore of opinion, that the same power should be exercised, and the same course should be taken to accomplish the enlargement suggested, as would be exercised in creating a new Roman Catholic parish.

All which is most respectfully submitted by Your Excellency's

Most obedient humble servant,

J. MONK.

To His Excellency Sir J. H. Craig, K. B.,
Governor in Chief, &c., &c.

OBSERVATIONS RELATIVE TO THE POLITICAL STATE OF LOWER CANADA, BY MR. RYLAND.

WRITTEN IN THE MONTH OF MAY, 1808, AND MAY SERVE AS A PREFACE
OR INTRODUCTION TO WHAT WILL BE FOUND IN THE SUBSEQUENT PAGES.

There is reason to apprehend that the time is fast approaching when the House of Assembly of Lower Canada will become the centre of sedition, and a receptacle for the most desperate demagogues in the Province; nor does there at this moment appear to be any *existing* means, (except such as arise from the known vigour and ability of the Governor in Chief,) to counteract the projects which such a House of Assembly may form.

To remedy the evil it will require much wisdom, joined to a preponderating *English* influence, both in the Legislative and Executive Councils. It will equally require intelligence, firmness and capacity on the part of His Majesty's Justices of the Provincial Courts of King's Bench, who may eventually have to decide on points of the highest importance arising out of the wild, disorganizing pretensions of the Assembly.

It must be evident to every person who is acquainted with the actual state of things here, that neither the Bench nor the Councils, as they are at present composed, would be able to afford an adequate check to a bold systematical attempt on the part of the Assembly to obtain a mischievous preponderance in the Provincial Legislature; much less could those bodies be expected to co-operate in a general plan for assimilating the Colony in its religion, laws and manners, with the Parent State.

It is humbly suggested that, preparatory to measures of a more particular nature, it would be advisable to add eight or ten members to the Legislative Council, three or four of whom might be Canadians of the most respectable character and families, and the remainder Englishmen of the best stamp and abilities, that are to be found in the Province, and whose attendance might at all times be depended on. It may be well deserving the attention of Government to consider whether it would not be advisable to give a seat in the Council to two or more Military Officers of the higher ranks, holding staff appointments in the Province, that may be regarded as permanent.

It is suggested that the two senior Judges at Quebec,*

***MEM.** Subsequent experience hath deeply convinced me, that infinite advantage to the King's interests would be obtained by choosing from among the practitioners at the bar at home, (and upon the recommendation of the Lord Chief Justice,) not only the Provincial Attorney and Solicitor General, but the two Chief Justices (if ~~two~~ be necessary,) and at least one-third of the Provincial Puisné Judges, the latter of whom should have seats in the *Legislative* (but not the Executive) Council. By this means the Crown might secure to itself the support of firm, able, upright and dignified characters, men attached by birth and education to the Parent State and to Monarchical principles, and there is no doubt but it would in the end be found infinitely less expensive to secure the

(who are both of them upwards of seventy-three years of age,) should be permitted to retire on pensions; that, in appointing their successors, the utmost care should be taken to select men of capacity and firmness; Englishmen whose natural ties and habits attach them to the laws and religion of the Parent State.

By *English* is here meant persons born and educated in any part of His Majesty's European Dominions.

With a view to the furtherance of the objects contemplated, it would be advisable to establish a corporation for the advancement of learning, agreeably to the Provisions of the Provincial Statute, 41 Geo. III, cap. 17, and to solicit His Majesty's decision with respect to the Jesuits and the St. Sulpician Estates.*

It will be seen on a perusal of the Act above mentioned, that a most powerful means is thereby afforded for encreasing the influence of the Executive Government, and for gradually improving the political and religious sentiments of the Canadians.

Connected with the above objects, the settlement of the waste lands of the Crown becomes a matter of the utmost consequence. The system of associated companies, which was adopted for this purpose in the year 1793, may now be considered as abandoned; but the Royal Instructions of August, 1807, to the present Governor in Chief, shew that it is not His Majesty's intention to restrict or regulate the granting of the waste lands in any other way than that which was prescribed by the Instructions of 1791 to Lord Dorchester.

This being the case, and the project afterwards brought forward of selling the waste lands for the purpose of raising a revenue, having failed, it is to be presumed that

services of such men by competent and liberal salaries than to incur the risk of having the Province revolutionized through the want of them. Above all things, however, care should be taken that these appointments may not degenerate into a *Job*, and that the places be not chosen for the *men*, instead of the men being chosen for the *places*. Such a system of patronage would only render matters worse.—R.

Quebec, 1815.

* For particulars relative to the Jesuits and St. Sulpician Estates, see subsequent correspondence.

the Governor and Executive Council are left at liberty to adopt such a system as they shall think proper, under the present Instructions, for encouraging the settlement of the country; and nothing would so effectually contribute to this end as an Act of the Imperial Parliament, empowering the Governor, with the advice of the Executive Council, in cases where the inhabitants of any township, (or several townships collectively, to be formed into counties or districts,) shall amount to a certain number of freeholders, (say one or two thousand, and upwards,) to issue a writ authorizing the election of a member to represent such township, county or district, in the Assembly. Such an Act would not only encourage the settlement of the waste lands, and attach the inhabitants of the townships to His Majesty's Government, by enabling them to participate in the legislation of the Province, but it would provide an effectual check upon the French or Roman Catholic party which has at this time an alarming preponderance.

It may here be remarked that the English settlers in the townships are estimated at upwards of fourteen thousand, and that the division of the Province, pursuant to Lieutenant Governor Clarke's proclamation, (under the Canada Act of the year 1791,) for the purpose of regulating the election of members to serve in the Assembly, was made prior to the erection and settlement of the townships, and secure the election of *two* English members only throughout the Province, namely, one for the inferior District of Gaspé, and one for the Borough of William Henry, where the English inhabitants happen to have a majority of votes.*

It is hardly possible to attach too much importance to this subject, or to place it in too prominent a point of view, as it shews the absolute necessity of an Act of the Imperial Parliament, if it is intended that there ever should be any thing like an English influence in the inferior branch of the Provincial Legislature, for it is not to be expected that a House of Assembly, made up as the present, will ever suffer a Bill to pass for the encouragement of

* An error, however, as to Gaspé, where the majority of votes have always been, and are, of French origin.—R. C.

English settlers, and much less one which would afford such settlers the means of representation in that House.

H. W. R.

HINTS FOR A PROCLAMATION, BY MR. RYLAND.

BY HIS EXCELLENCY, &c.—Whereas His Majesty, by His Royal Instructions to the Governor of this Province, hath been pleased to order, “That no person whatsoever within the Province of Lower Canada, professing the religion of the Church of Rome, shall have the cure of souls without a licence for that purpose first had and obtained from the Governor, Lieutenant Governor, or person administering the Government of this Province for the time being; and further, that no person professing the religion of the Church of Rome be allowed to fill any ecclesiastical benefice, or to have or enjoy any of the rights or profits belonging thereto, who is not thereto appointed by His Majesty, or by or under his authority; and whereas, by a recent Judgment of the Court of King’s Bench for the District of——, it hath been determined, &c., &c., &c.

Now, therefore, being desirous of securing to His Majesty’s subjects in this Province, who profess the religion of the Church of Rome, the full and free exercise of their religion, and of securing to the Clergy all necessary rights and privileges, I do (by and with the advice of His Majesty’s Executive Council) issue this proclamation, hereby directing all Ecclesiastics throughout His Majesty’s Province of Lower Canada, within the space of months from the date hereof, to deliver in their names at the Office of the Secretary and Register of the Province, specifying at the same time the cure or benefice they are actually in the enjoyment of; in order that they may severally receive an instrument under the great seal of the Province, confirming them in the possession of such cure or benefice, and securing to them the full and legal enjoyment of all the rights, privileges, powers and revenue which justly ought thereunto to belong.

Given under my hand and seal at arms, &c., &c., &c.

PROJET OF AN INSTITUTION FOR THE ADVANCEMENT OF LEARNING IN THE PROVINCE OF LOWER CANADA, DRAWN UP ABOUT THE YEAR 1803.

BY MR. RYLAND.

First.—To create a Corporation by Letters Patent, capable of receiving and holding real property by gift, devise, or otherwise, with perpetual succession, and authority to make by-laws.

Second.—The Corporation to consist of:

- 1—The Bishop of Quebec,
- 2—The Chief Justice,
- 3—The Justices of the King's Bench,
- 4—The Executive Council,
- 5—The Attorney and Solicitor General,
- 6—The Superintendent of the Roman Catholic Church,
(i. e. the person who is appointed to be such under His Majesty's Commission.)
- 7—A certain number (say 12 or 16) of the principal gentlemen, English and Canadian.

Third.—The Visitation to be vested in the Crown, and exercised by the Governor.

Fourth.—The Establishment at first to consist of a Rector, and as many Tutors (not less, however, than two) as may be necessary at first. To be increased as circumstances may require.

Fifth.—The students to be instructed, from the first opening of the College, in

- | | | | | |
|----|---|---|---|---------------------------|
| 1. | { | English,
French,
Latin and
Greek | } | Languages and
Grammar. |
| 2. | | Logic, | | |
| 3. | | Rhetoric, | | |
| 4. | | Mathematics, | | |
| 5. | | Natural Philosophy, | | |
| 6. | | Metaphysics, | | |
| 7. | | Ethics. | | |

Sixth.—The study of Christian Theology to be excluded.

Seventh.—All appointments to offices to be vested in the Governor, with the advice of those persons who, according

to the tenor of the Letters Patent, shall under the Governor (who must of course be the proser of the whole,) be intrusted with the immediate direction of the Institution.

Eighth.—The College to be situated either in or near Quebec, the Seat of Government (as at Charlesbourg) under the eye of Government.

MR. RYLAND TO THE EARL OF LIVERPOOL.

PLYMOUTH DOCK, 31st July, 1810.

MY LORD,—I take the liberty of informing Your Lordship, that I am arrived at this Port from Quebec, being charged with despatches to Your Lordship from Sir James Craig, which I was instructed to deliver in person; but finding that accidental circumstances will render it impossible for me to proceed on my journey before tomorrow, I shall forward them by this night's mail, as no conveyance can be more speedy or safe, and I shall make it my duty to wait upon Your Lordship the moment I reach town.

The despatches are of the numbers specified below.* Your Lordship will permit me to add that at the time of my leaving Quebec the measures pursued by Sir James Craig had placed the Province of Lower Canada in a state of tranquillity, and I do not apprehend any immediate danger of the renewal of attempts to disturb it.

I have the honor to be,

My Lord,

Your Lordship's

Most obedient and most humble servant,

(Signed,) H. W. RYLAND.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, 4th August, 1810.

DEAR SIR,—In writing to Your Excellency it is my intention to confine myself almost entirely to matters of public business, and in order to be as regular as possible in my correspondence, I shall observe the formality of

* Numbers of the despatches:—6, 7, 8, 9, 10, 11, 18, 14, 15, 16, 17, 18, 19, 20, 21, and 22.—H. W. R.

numbering my letters, and of writing duplicates; and I will reserve for my friend Thornton* subjects of inferior importance or of mere personal interest.

I have now to inform you, that I yesterday had my first interview with Mr. Peel, the Under Secretary of State, who received me with great attention, and who, though a very young man, and but a few days in office, appears to be very much *au fait* in matters of public business. He had read the principal despatches, but could not have had time to make himself fully master of their contents, we therefore did not enter very particularly into the subject of them. I was anxious to discover what impression they had made on his mind, and how far the measures adopted, and the plans proposed by you, met with the approbation of His Majesty's Ministers; but, from all which passed between us, I could only ascertain that you were considered as having had a very arduous task, and as having executed it with great firmness and ability. One particular, however, in the course of our conversation struck me, and I think it deserving of notice: it is, that when I observed to Mr. Peel, that you had with you all the *English* inhabitants, and consequently all the commercial interest of the country, he remarked that the Canadians were much more *numerous*, and he repeated the same remark more than once in a way that indicated a fear of doing anything that might clash with the prejudices of the *more numerous* part of the community, and this, if my apprehensions are well founded, will be the great difficulty in the way of decided and effectual measures. Seeing that Mr. Peel was overwhelmed with business, I thought it advisable, in this interview, to touch only on one or two principal points. I mentioned your anxiety to be instructed as early as possible with respect to the conduct to be pursued towards the next House of Assembly, and the notice which should be taken of the unconstitutional proceedings of the last. I also stated the mode in which you thought it advisable the patronage of the Romish Church livings should be brought forward, and was desired by Mr. Peel to make a communication to him on this subject in writing, which I shall

* Sir J. H. Craig's Military Secretary.

not fail to do immediately. I ventured to say that a public expression of His Majesty's decided approbation of your conduct, could not fail to have a very great and very desirable effect on the minds of the Canadians at large; and I concluded our conversation by observing that I had been intimately acquainted with the public affairs of Lower Canada during the last seventeen years, that I was fully persuaded the administration of the Government of that Province might without difficulty be rendered more easy than that of any other British Colony, and I hoped it would be found that in your present despatches you had clearly pointed out the means for accomplishing this desirable end. I must not omit to add that it appeared, from a few words which escaped Mr. Peel, that a re-union of the two Provinces would be thought a more advisable measure than a suspension of the present constitution. When I first went to the Office, and gave in my name, Lord Liverpool sent me word he was very busy at the moment, but that he would be glad to see me in the course of next week, and that, in the meanwhile, if it would be agreeable to me, he wished me to see the Under Secretary of State, to whom I was immediately introduced. I had nearly forgot to mention that I gave Mr. Peel your memorandum concerning Mr. De Salaberry's mandamus which he said he would not fail to shew to Lord Liverpool.

7th August.

I had a second interview with Mr. Peel this morning. He thanked me for the letter I had written to him, pointing out the mode recommended in your additional instruction, relative to the assumption, on the part of the Crown, of the patronage of the Romish Church, and he seemed to think it might greatly facilitate the business. I availed myself of the opportunity to say a few words concerning the character of Mr. Plessis, and what passed when he was before the Council, also the time and mode of his appointment, &c. I afterwards mentioned Mr. Uniacke and Mr. Bowen, the incapacity of the one, and the competency of the other to execute the duties of Attorney General, and the great importance of such an office being duly filled at a moment like the present. From the manner in which my observations were received, I am led to believe that

there will not be the least objection to what you have recommended respecting those gentlemen.

As I do not recollect that you sent home the numbers of the "Canadien," which were the ground of the proceedings in Council against the editors of that paper, I left a set with Mr. Peel, accompanied by a memorandum of which I shall enclose a copy.

At parting he said that Lord Liverpool would be happy to see me as soon as he had read through the despatches.

On my return home I called at Mr. Greenwood's, where I found William's letter (without date) enclosing Bishop Denaud's memorial of the 18th July, 1805, to Sir Robert Milnes, of which I shall take great care, and avail myself when occasion offers. At night I received a note from Mr. Peel, informing me that he was directed by the Earl of Liverpool to request I would call at the Office on Thursday at 12 o'clock. I hope, therefore, I shall soon be enabled to form some more certain judgment of what the determination of His Majesty's Ministers may be with regard to the important objects which Your Excellency has submitted to their consideration.

I have the honor to be,

Dear Sir,

Your Excellency's

Most faithful and most humble servant,

(Signed,) H. W. RYLAND.

MR. RYLAND TO R. PEEL, ESQ., UNDER SECRETARY
OF STATE.

32, GREAT RUSSELL STREET, 4th August, 1810.

SIR,—I avail myself of the permission you gave me yesterday to state in writing, for the consideration of the Earl of Liverpool, what appears to Sir James Craig to be the most eligible mode of qualifying an order for an assumption on the part of the Crown, of the patronage of the Romish Church in the Province of Lower Canada. Should His Majesty's Ministers be disposed to accede to what he has recommended on that head, the Governor is of opinion that nothing would tend more to render the measure acceptable

to the parties concerned than his being instructed to inform Mr. Plessis, the present Roman Catholic Bishop, that the petition of his predecessor, the Rev. Mr. Denaud, of the 18th July, 1805, to the King, has been taken into serious consideration ; that His Majesty is graciously disposed to accede to the prayer of the said petition, by granting to the Roman Catholic Bishop the powers and authorities requisite to enable him to be recognized in the King's Courts, and for this purpose to grant to him letters patent, appointing him to be Superintendent of the Romish Church in the Province of Lower Canada ; that a salary suited to the dignity and importance of this office will be granted by His Majesty to the person holding the same ; that for the purpose of giving to the Roman Catholic Clergy a *legal* title to the privileges and emoluments of their respective cures, His Majesty has been pleased to authorize the Governor to issue, in favor of each of them, letters of induction in like manner as is practiced with regard to the Provincial Clergy of the Established Church, which letters of induction or confirmation will, in the first instance, be issued free of expense, on the Governor's receiving from the Roman Catholic Bishop a return of the present incumbence.

That, as in many instances since the cession of the Province to the Crown of Great Britain, parishes have, without due authority, been laid out, and curates appointed thereto, who for want of such authority, could not legally exercise their functions, or enforce payment of tithes, His Majesty has been graciously pleased to empower the Governor to issue letters patent under the great seal of the Province, confirming and establishing such parishes.

That on a full consideration of the advantages thus proposed to be granted and confirmed to the Clergy of the Romish Church in Lower Canada, His Majesty trusts that his subjects professing the Romish religion in that Province, will be sensible of his paternal regard for their interests ; that the bonds of duty and attachment towards his person and Government will thereby become the stronger, and the general welfare and tranquillity of the Province be essentially promoted.

The above suggestions are the result of a conversation which I had with Sir James Craig the day previous to my

departure, after his despatches for the Earl of Liverpool were closed, and at his desire I then committed them to paper for the purpose I now have the honor of fulfilling in communicating them to you, Sir; and I flatter myself you will have the goodness to excuse the freedom with which I have entered into the subject.

I have the honor to be,

Sir,

Your most obedient humble servant,

(Signed,) H. W. RYLAND.

SIR JAMES CRAIG TO MR. RYLAND.

QUEBEC, POWEL PLACE, * 6th August, 1810.

MY DEAR RYLAND,—Long before this, we set you down as safely arrived, for we have had scarce three days of any other than westerly wind, since the St. Lawrence spoke with you in the gulf. Our last accounts from England are those which you left with us, and which were brought to us by the Owen Glendower, except one single paper, Liverpool, of the 2nd June, by which we see that the April packet, which carried home the accounts of what had taken place in these parts, arrived only the 27th of May.

Till I took my pen in my hand, I thought I had a great deal to say to you, and now I am almost at a loss for a subject. I have nothing to add to the volumes you carried home. We have remained very quiet, whatever is going on is silently. I have no reason to think, however, that any change has taken place in the public mind: *that*, I believe, remains in the same state. Plessis, on the return from his tour, acknowledged to me that he had reason to think that some of his *curés* had not behaved quite as they ought to have done; he is now finishing the remainder of his visitations. Blanchette and Taschereau are both released on account of ill health; the former is gone to Kamouraska to bathe, the latter was only let out a few days ago. He sent to the Chief Justice to ask if he would allow him to call on him, who answered, by all means. The Chief Justice is convinced he is perfectly converted. He assured

* Now "Spencer Wood," the Governor's residence.

him that he felt it to be his duty to take any public occasion, by any act whatever, that he could point out, to shew his contrition, and the sense he entertained of his former conduct. He told the Chief Justice in conversation, that Blanchette came and consulted him on the subject of publishing the paper, "Prenez vous par le bout du nez," and that having agreed that it would be very improper that it should appear, they went to Bedard, between whom and Blanchette there were very high words on the occasion. I know not what Panet is about, I have never heard one word of, from, or about him. In short, I really have nothing to tell you, nor do I imagine that I shall have till I hear from you. You may suppose how anxious I shall be till that takes place. We have fixed the time for about the 10th September; till then I shall not come to any final resolution with respect to the bringing the three delinquents to trial or not. I am, however, inclined to avoid it, so is the B——; the C. J. is rather, I think, inclined to the other side, though aware of the inconvenience that may arise from it. Blanchette and Taschereau have both, in the most unequivocal terms, acknowledged the criminality of their conduct, and it will be hinted that, if Bedard will do the same, it may be all that will be required of them; at present his language is, that he has done nothing wrong, and that he does not care how long he is kept in prison. We have begun upon the road to the townships,* which was become indispensably necessary, for we were almost starved. Indeed, I think it an object of the first importance to the general interests of the Colony in every point of view. At present, all that tract is nearly as little connected with us as if it did not belong to us. A communication was much wanted, not merely for the purpose of procuring us the necessary supplies, but for the purpose also of bringing the people to our doors, as may be said, and shewing them they are a part, and, consequently, increasing their interest in the welfare of the country they belong to. There was no hope of accomplishing it but by some extraordinary exertion, and Major Robertson is now upon it with 180

* Known as "the Craig Road," through the Eastern Townships.
—R. C.

men. Kempt,* in whose department it more particularly rests, and who is exceedingly zealous in it, though not quite so much so as the C. J., returned from visiting it yesterday : he says they are going on wonderfully well : I hope to finish it in the middle of October. George Hamilton has advanced £1000, which is to be repaid him in land. We shall get money enough, especially as we hope to finish it at a third of what it would have cost if we had employed the country people. The scoundrels of the Lower Town have begun their clamour already, and I shall scarcely be surprised if the House should ask, when they meet, by what authority I have cut a road without their permission. The road begins at St. Giles, and will end at the Township of Shipton. LeBreton has undertaken to make all the bridges, and I have commissioned the C. J. to agree with a man to bring in five-and-twenty settlers to occupy lots upon it. By the bye, poor old Frobisher, who is so much interested in the business, is so ill as to be supposed dying. The Bishop is set out on his tour to the Upper Country once more. I say, set out, for I have doubt of his accomplishing it. He was scarcely got out after six weeks confinement in a fit of the gout, and, I think, was by no means well when he left this.

It is scarcely time to give you commissions yet; however, to make sure of it, remember when you come to bring me half-a-dozen real good razors.

Adieu ; my best compliments to Mrs. Ryland, and believe me ever

Yours most faithfully,

(Signed,) J. H. CRAIG.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, 10th August, 1810.

DEAR SIR,—I yesterday had the honor to wait on the Earl of Liverpool according to appointment, and His Lordship's reception of me was in the highest degree flattering and satisfactory.

He began the conversation by saying that he had deferred seeing me till then, in order that he might have

* The Quarter Master General, the late Sir James Kempt.—R. C.

time to read over your despatches deliberately; that their contents were of great importance, and that they must be submitted to His Majesty's other servants before anything decisive could be determined, respecting the subject of them. His Lordship desired to have my opinion as to the actual state of the country, and whether there was any immediate danger of fresh attempts to disturb the public tranquillity. I told him I had no doubt but the measures adopted by Your Excellency, and your known firmness would keep down the spirit of faction for the present, and that if, at the next opening of the Legislature, you were authorized to express His Majesty's decided disapprobation of the proceedings of the late House of Assembly, it would effectually tend to keep matters quiet during the session. His Lordship discussed the subject of the memorandum I had left with Mr. Peel on Tuesday, expressed a wish that I should see the Attorney and Solicitor General, and added that he thought the Lord Chancellor would probably desire to talk with me on the subject. He then adverted to the particular character of the persons who edited the "*Canadien*," and asked whether they might not be brought over? I observed that, unfortunately, this system had heretofore been acted upon in Canada, and that I considered the late proceedings of those individuals as the natural consequence of it; men of desperate fortunes, with some talents, but destitute of principle, having thereby been encouraged to oppose Government for the purpose of forcing themselves into place. I said that, with regard to Mr. Bedard in particular, there was no doubt his first motive was to get into office; but that he had now so far committed himself as to render it impossible, and feeling this, as he must do, he was prepared for the most desperate measures, and rendered a fit tool for the worst of purposes, in which opinion His Lordship perfectly acquiesced.

He afterwards entered on your proposal respecting a temporary suspension of the present constitution, and said he would candidly tell me, that however inclined His Majesty's Ministers might be to support such a measure, he did not think they could venture, under present circumstances, to bring it before Parliament, where there was no doubt it would meet with strong opposition. The re-union

of the two Provinces, or an *Act for a new division of Lower Canada, so as to throw into the House of Assembly a greater proportion of English members*, seemed, in His Lordship's opinion, to carry with it much less difficulty, and he spoke of assembling the Legislature at Montreal as a desirable measure.

His Lordship asked me whether I did not think that the House of Assembly might be alarmed into good conduct by the fear of an essential alteration in the constitution, or the loss of it altogether; or whether the same effect might not be produced by *calling them together year after year, and proroguing them the moment they manifested a disposition to do mischief?* To which I answered that I had no doubt the next Session might be got over with little trouble in this way, especially if the House met and was prorogued previous to the 1st of January, by which means the American Intercourse Act, and *the Act for the better preservation of His Majesty's Government*, might be continued in force (without being renewed) for another twelve-month; but I was apprehensive that such a system could not be persevered in from year to year without great detriment to the commercial body in particular, and indeed to the Province at large, by preventing the gradual amelioration and improvement of the laws. I then mentioned how anxious you were to receive His Lordship's instructions respecting these objects, before the next meeting of the Provincial Legislature, and that if the despatches were put under cover to Mr. Barclay, the British Consul at New York, they would reach you much more expeditiously than by the ordinary route of the Halifax post. His Lordship desired me to let him or Mr. Peel have a memorandum of this, and repeated what he had said before, that His Majesty's other servants must be consulted upon the subject of the despatches, but that he hoped he should be able to answer the most material points by the beginning of next month.

As I am now assured of a free access to the Secretary of State, and have reason to believe that any communications from me will be received with attention, I shall, to the best of my ability, follow up Your Excellency's instructions, and if in so doing I am fortunate enough to obtain your approbation it will afford me inexpressible satisfaction.

After taking leave of Lord Liverpool I waited on Mr Peel for the purpose of putting into his hands Mr. Uniacke's draft of a lease of the Forges of St. Maurice, and the report made on it by the Committee of the whole Council. He is to give me an introduction to the Attorney and Solicitor General, and I shall not fail to make Your Excellency acquainted with all that passes, though I fear I may already have entered into particulars that will tire your patience.

I have the honor to be,

Dear Sir,

&c., &c., &c.,

(Signed,)

H. W. RYLAND.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, *Tuesday, 14th August, 1810.*

DEAR SIR,—I yesterday had the honor to dine with the Earl of Liverpool at Coombe Wood: the party consisted of His Lordship, Lady Liverpool, Lord and Lady Bathurst, Lord Apsley and his sister, I believe, Sir Joseph and Lady Banks, Mrs. Banks, Mr. Peel, the Under Secretary of State, and a lady whose name I do not recollect.

I had some conversation with Mr. Peel, before dinner, concerning the state of things in Canada, and I was mortified to find that he had but an imperfect idea of the subject. He expressed himself as though he thought you had dissolved the House of Assembly on account of their having passed a Bill for excluding the Judges. I told him, that, on looking into the journals, he would find the contrary was the case, that, instead of passing an Act for this purpose, they had determined to lay aside the Bill as amended by the Legislative Council, and to assume the unconstitutional power of depriving, by a resolve of the House, a particular class of His Majesty's subjects of their right to be elected, and that, if you had not firmly resisted this attempt, their views would have been carried to an infinitely greater and more dangerous extent. I endeavored to give Mr. Peel a clear and correct conception of these matters. God knows with what success! I recol-

lected your advice, and kept my temper, nor have I once appeared warm on these topics ; but it is really very provoking to see men of fine endowments and excellent natural understanding, too inattentive to make themselves masters of a very important subject which has been placed before them in an intelligible manner.

He told me he had read Lord Grenville's despatch of October, 1789, to Lord Dorchester, which I had recommended to his attention, and he seemed to think a re-union of the two Provinces a desirable object. After we left the dinner table, Lord Bathurst entered very freely into conversation with me concerning Canada ; but he dwelt more on the commercial and agricultural, than on the political state of the Colony. I represented to him, however, the great detriment which arose from the want of a larger proportion of English representatives in the House of Assembly, and His Lordship perfectly agreed with me on this head.

Lord Liverpool did not enter particularly into the subjects, but from all which has fallen from him in my presence, and from all I have had an opportunity of observing, I feel confident Your Excellency stands high in the opinion of His Majesty's Ministers.

Wednesday, 15th August.

After writing what goes before, I called yesterday at the Secretary of State's Office, and saw for a moment both Lord Liverpool and Mr. Peel ; the latter was so good as to frank my letters to Your Excellency, (Nos. 1, 2,) to the care of a merchant at Portsmouth, who, I hope, will be able to get them on board the frigate which goes out with the fall fleet. In the course of a short conversation, for he was evidently very busy, I observed to him, that it might be of great importance to you to receive as early an intimation as possible of His Majesty's sentiments with respect to the proceedings of the last House of Assembly ; to which he replied, " this must, of course, be a Cabinet measure, and, therefore, he could not say what instructions you would receive on that head." He told me the Lord Chancellor had returned your despatches, together with my memorandum of the 7th instant, and that he was going to send them to the Attorney General, to whom he gave me a letter

of introduction, requesting I would call upon that officer this morning at 11 o'clock.

I am just now returned from paying my respects to him ; I took with me the volume of the "Canadien" bound up, and a copy of the proceedings of the Executive Council, respecting the seizure of the press, and the arrest of the editors ; also a note I have written to Mr. Peel, of which I inclose a copy, and which Sir V. Gibbs was pleased to say was highly proper and to the point.

He laid your despatches and the other documents that had been sent to him by the Secretary of State upon the table, and removed every other paper away, saying we should have nothing there to divert our attention. After a short preamble, he desired to have my opinion with respect to the House of Assembly, and whether I thought they might be brought into a more correct and pliant line of conduct by the manifestation of firmness on the part of the Imperial Government. He observed that in a despatch dated 24th March, you intimated an expectation of a change for the better, but that your subsequent despatches expressed a very different opinion. I said that I did not apprehend the House would venture on any violent proceedings, provided you were authorized to express to them His Majesty's decided disapprobation of the conduct of the last House ; but that till a plan was adopted for giving to the King's Representative a greater degree of influence, and for introducing a greater proportion of English members into the Assembly, I did not believe they could be brought to renew either the Alien Act, or the Act for the better preservation of His Majesty's Government. He made a memorandum of my opinion, and read it to me afterwards. When I mentioned Lord Grenville's despatch of October, 1789, to Lord Dorchester, and that in it the Secretary of State did not enter into the reasons urged by Lord Dorchester against a division of the Province of Quebec, Sir Vicary said, "Lord G. is a superficial, wavering man, and I have no doubt he purposely carried it with a high hand." He added, in answer to an observation I had made, that Mr. Pitt was certainly misled in acceding to this measure, but that he was sure he had no view of patronage in it, for that was not a system upon which he acted.

In conversing on the subject of the arrest of Bedard, and the seizure of the press, Sir Vicary observed that we had proceeded in a manner which he, perhaps, should hardly have ventured to do in this country, but that he could not form a decided opinion with respect to this matter, till he had seen the Act of 1803. This I have since sent to him, the Act of the last Session, which I had with me, being only a renewal of the former. He was impressed with the importance of continuing it in force by the measure suggested in the inclosed memorandum to Mr. Peel, as it would afford His Majesty's Ministers leisure to determine how far it might be expedient to call for the interference of the Imperial Parliament respecting it, and in the meanwhile operate as an effectual check upon the designs of the anti-government party. I mentioned to him the case of Mr. Uniacke, and the embarrassing situation in which you were placed by his want of ability, and his entire ignorance of the laws and language of the Province, and he said you did perfectly right in disposing of him as you have done. He had not seen Mr. U.'s draft of the lease, nor the Report of the Council upon it, which I had left with Mr. Peel. We were frequently interrupted by the clerks coming in to say gentlemen were waiting to see him, which induced me to shorten my visit. At parting, he requested I would dine with him to-morrow at Haye's Common, about fourteen miles from town, which I have promised to do.

Friday, 17th August.

I am sorry to say that my visit at Sir V.'s yesterday did not prove so satisfactory as I had flattered myself it probably would. He told me that Mr. Ryder, Principal Secretary of State for the Home Department, would be there, and I hoped we should have had a small party, merely to talk over the affairs of Canada; but, in addition to that gentleman, there was the Dean of Windsor, Mr. Peel, a Mr. or Captain Fraser and his sisters, Lady Gibbs and daughter, Mrs. Pilkington, a charming young woman whose husband, as Sir V. tells me, is gone out to Canada on a staff appointment.

As we were walking together in the grounds, before dinner, Mr. Peel mentioned that he received my note yes-

terday, that the Cabinet Ministers had had sittings on the subject of your despatches, and he believed they were all of one sentiment with regard to the conduct of the House of Assembly, and that you would be instructed to express His Majesty's disapprobation of it. After we came up stairs from dinner, Sir V., Mr. Peel, and myself entered, for a few minutes, into a more general conversation on the affairs of Canada. They were both decidedly of opinion that the division of the Province of Quebec was a most injudicious and impolitic measure; but when I urged the necessity of a re-union, the answer was, "what will Mr. Whitbread, what will Mr. Tierney say on that subject?" and, "shall we have no representation from Canada, on the other side of the question?" In short, Sir, from all which has passed I plainly perceive that this Ministry is weak, very weak, that they are sensible of the utility and even necessity of the measures you have proposed, and at the same time are afraid to bring them forward lest they should be taken advantage of in Parliament by the opposition. A suspension of the Constitution must, I find, be put entirely out of the question. Lord Liverpool's observation to me, respecting it, was made in so impressive a manner, that I have not ventured to renew the subject, and I shall be cautious of pressing any legislative measures on their attention till I become better acquainted with the particular sentiments and relative strength of the parties in and out of power. I am much concerned that your brother and Sir H. Dalrymple are out of town at this moment, as they might be able to afford me some light on this subject, whereas now I am left to my own resources, and with a very imperfect knowledge of the *carte du pays*.

I shall not leave town till I am assured that you have, or speedily will have, instructions on the points of most immediate importance. I will then go for a short time to see my children in the country, and place those I have brought with me. At my return I shall hope to find people collected together, and that previous to the meeting of Parliament, some practical system, with regard to Canada, may be determined on.

The Attorney General has told me he shall be happy to see me at any time, either in town or country, and

I shall not fail to avail myself of his kindness in this respect, whenever a fair occasion offers. I have just now sent him the last volume of the journal of the House of Assembly, in which I have marked the passages relating to Mr. DeBonne; also the Quebec Gazette, containing the Presentment of the "Canadien" by the Grand Jury. He is a quick, intelligent, plain man, but so overwhelmed by a multiplicity of business, that I hardly conceive it possible he should give such a degree of attention to the matter contained in your despatches as to make himself master of the several subjects. When I last saw him he had not read the proceedings of the Executive Council concerning the arrest of Bedard, etc., which I had put into his hands the day before.

Tuesday, 21st August.

I called again on the Attorney General this morning, but finding several persons were waiting to see him, I told him I was sensible of the infinite value of his time, and would only ask whether he had received the book and papers I sent to his chambers on Friday. He said he had, but that he went to Windsor on Saturday, and was induced to remain there till Sunday, for the purpose of paying his respects to His Majesty, and that he really had not been able to look at them. I observed that I was only anxious on one account, which was that you should receive by the next mail an intimation of His Majesty's pleasure on those matters of most immediate importance, which do not require legislative interference. He answered that he had no doubt you would, then shook me heartily by the hand, and said he hoped it would not be long before he had the pleasure of seeing me again.

I confess to you, Sir, I feel at times greatly chagrined and mortified at the difficulty I find in obtaining that degree of attention to the objects of the mission you have honored me with, which is absolutely necessary to its successful termination; and the idea that I may be under the necessity of returning again to Canada, without having accomplished the purpose for which you sent me to this country, is the most painful and depressing that can enter my mind. If His Majesty's Ministers had leisure to in-

investigate thoroughly the several points Your Excellency has submitted to their consideration, I am confident that the whole might very speedily be determined on; but when I consider the vast field that lies before them, and the magnitude and variety of objects which continually press upon their attention, I cannot but be sensible that those which are uppermost in my thoughts, and appear to me of the highest importance, must be lost, as it were, in the general mass, and dwindle into insignificance, and I am forced to acknowledge that there is a fair ground of excuse for the delay I meet with; though I am not without an apprehension that the Ministry are so uncertain of retaining their situations, that they wish to reserve to themselves a power of opposing, in case of their being out, the very measures which their own judgments would lead them to adopt, were they sure of continuing in place.

If I remain here during the winter, when all parties will be collected together by the meeting of Parliament, I shall be much better able to ascertain the real state of things, and to avail myself of a variety of resources that are now out of my reach. I will only add that nothing within the compass of my ability and exertion shall be wanting towards the accomplishment of your views, and that it is impossible to feel more sensibly than I do how much the interests of the Crown, and the peace and happiness of the Province, under Your Excellency's administration, depend on the adoption of the measures you have recommended.

I have the honor to be,

Dear Sir,

Your Excellency's most devoted
and most faithful humble servant,

H. W. RYLAND.

Mr. Ryland flatters himself that Mr. Peel will excuse his taking the liberty to repeat in writing the observation he had the honor of making to him verbally yesterday, which is, that unless the Provincial Legislature of Lower Canada is convened and prorogued previous to the 1st day of January next, the Act for the better preservation of His Majesty's Government will expire at the close of the next ses-

sion ; and, considering the description of persons of which the House of Assembly is composed, and the predominant influence of the party opposed to Government, there is little reason to expect that this Act will ever be renewed by them.

Sir James Craig is anxious to receive, as early as possible, an intimation of His Majesty's sentiments with respect to the conduct of the last House of Assembly in assuming the power of depriving, by a resolve of the House, a particular class of His Majesty's subjects of their right to be returned members of the Assembly. It is evident that, were this power once acknowledged and established, it might be carried to any extent, and converted to any purpose which the prevailing party should think favorable to their views.

In case the Secretary of State should wish to make an early communication on this or any other subject, to the Governor in Chief, if the despatch is forwarded under cover to Mr. Barclay, His Majesty's Consul General at New York, it will reach Quebec several weeks sooner than by the common route of the Post from Halifax.

32, Great Russell Street,

Wednesday, 15th August, 1810.

MR. RYLAND TO EARL SPENCER, K.G.

LONDON, 19th August, 1810.

MY LORD,—Having already apprized Your Lordship that Sir J. Craig intended sending me home with his despatches, I presume to hope it will be satisfactory to Your Lordship to hear of my safe arrival, and that I have been received by the Secretary of State for the Colonial Department with an attention that is in the highest degree flattering, and which affords me some ground of expectation that the chief object of my mission may eventually be obtained.

I landed at Plymouth, and reached London two weeks ago, and as soon as some points of more immediate importance shall have been determined on, I purpose going for a short time into the country to see my children, after

which I shall return to town, and if in any way my services can be useful, as there is a probability they may, I shall devote myself entirely to the public affairs of Canada, during the remainder of my stay in England.

If I should at any time be within reach of Your Lordship, I flatter myself you will permit me to have the honor of paying my respects to you, for amongst all the persons who have had favors conferred on them by Your Lordship, there is not one who feels a deeper sense of respect, obligation and gratitude than myself.

I have the honor to be,

My Lord,

Your Lordship's most faithful and
most devoted humble servant,
H. W. R.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, *Thursday, 23rd August, 1810.*

DEAR SIR,—I yesterday received a note from Mr. Peel, informing me that Lord Liverpool would have a meeting with the Lord Chancellor and the Master of the Rolls to-day at the Foreign Office, and that His Lordship would request me to attend, if it perfectly suited my convenience. I went according to appointment to Downing Street at 2 o'clock, and after remaining some time with Mr. Peel, was sent for to the adjoining office. On entering the room I found it was a meeting of the Cabinet Ministers, eight in number; Lord Liverpool desired me to take a seat between him and Mr. Percival, the latter being close to me at the bottom of the table, and the former about half way up, to my left hand. As none of the Ministers present were personally known to me, except Lord Liverpool, Lord Bathurst and Mr. Percival, (who represents the town where I was born,) and the Master of the Rolls, whose person had been described to me before I went into the room, I cannot say of what other members the Board was composed; but the next time I see Mr. Peel I will ask him, as I am particularly desirous to know whether Lord Camden and the Marquis of Wellesly were there.

Lord Liverpool began the interrogation by enquiring whether I thought a high and decisive tone, at the next meeting of the House of Assembly, or a mild and conciliatory language would produce the best effect? I answered that I could have no hesitation in giving it as my opinion, that you could not be instructed to hold too high a language on the occasion, and that if the Government appeared in any degree to give way, I was apprehensive the worst of consequences might ensue. His Lordship then repeated the same question he had before put to me in private, whether the members opposed to Government might not be brought over by the hope of being employed? This question, I must confess, caused me rather a warm sensation; but I answered with coolness, that this system had already been acted upon in several remarkable instances, and that I could not but attribute to it, in a great measure, the line of conduct which the leaders of the democratic party had adopted; that their original object certainly was to force themselves into place; but the patronage of the Governor was very limited, and there were but few places to give away. I then repeated an observation I had made in my first interview with Lord Liverpool, concerning Bedard in particular, as the chief leader of the anti-government party, who has now so committed himself as to render it impossible he should be employed. I dwell the more particularly on these first objects of enquiry, because they mark the *system* which the Ministry seem inclined to adopt, and which, in my judgment, would be the most disgraceful to Your Excellency's administration, and the most injurious to the interests of the Crown, that a weak mind could devise.

A number of questions were put to me by almost every member present. At first they seemed not aware that the Act of Parliament obliged you to call the Legislature together once a year, but in this point I soon put them right. They questioned me concerning the Provincial revenue, and seemed to think that the supplies depended very much on keeping the House of Assembly in good humour. On this head I observed that the casual and territorial revenue, joined to the permanent duties already established by Acts of the Imperial or Provincial Legislature,

produced, if my recollection served me right, upward of £30,000 a year, and that these revenues might be expected to increase with the increasing population and commerce of the country ; that the usual annual expenditure did not exceed £40 or £45,000 a year, and that the difference, which you were authorized to receive from the army extraordinaries, could not, I conceived, be considered as a material object to this country : I added, that if we were under a necessity of looking to the House of Assembly for supplies, then indeed it might be found expedient *at all hazards*, to secure a majority. I made some further observations which it is not necessary to repeat, and they seemed at last perfectly to understand, and acquiesce in the opinion that, as far as the Provincial revenue and expenditure were concerned, there was no urgent necessity for humouring the House of Assembly. They then went into a discussion of the temporary Acts, and I explained to the best of my ability the nature of the Alien Act, the American Intercourse Act, and the Act for the better preservation of His Majesty's Government. I spoke of a renewal of the first as very desirable, though not absolutely necessary ; that as far as related to alien enemies coming into the Province, I was persuaded Your Excellency would have no hesitation in taking upon yourself to dispose of them as you might think best. But that it was to be wished that you had certain powers given you with respect to persons who had resided in the French Dominions or in countries under the control of France, &c., &c. The American Intercourse Act they evidently did not understand. I endeavoured to explain how it took its rise under Mr. Jay's Treaty, certain articles of which were considered by the Provincial Government as being still in force ; that if it was not renewed the Prohibitory Acts of the Colonial Legislature, whose operation was suspended by it, must take effect, &c. I doubt whether the gentlemen present had a clear conception of the subject, for they read a clause in an Act of the Imperial Parliament as applying to the case, which did not appear to me at all applicable ; but I declined entering further into it, wishing to bring their attention to a matter of much greater importance, I mean the Act for the better preservation of His Majesty's Government.

I found from what passed, that they had read the memorandum I had given to Mr. Peel, concerning it. They again asked me if I thought the Assembly would renew it? and I answered that I felt persuaded they would not. They enquired what was the proportionate number of English and Canadian members in the former and present House of Assembly; whether the English were always with the Government? I said that in all cases of great importance they were, with one exception, which was that of a Mr. Stuart, formerly the Solicitor General,* who had joined the democratic party, and whom you had in consequence dismissed from his office, and that the English influence at Montreal had succeeded in preventing this man from being returned at the last election. They then entered into a string of questions concerning the description of people of which the present and former Houses were composed; the nature and tenure of the estates held by the habitants, their education and prejudices; the reasons why men of property and consequence were not oftener elected, &c. I forgot neither the blacksmith, nor the men who attested the roll by their marks, nor the views and proceedings of the subtle demagogues who wished, for the most mischievous of purposes, to establish a right in the majority to disqualify, by a vote of the House, any class or description of His Majesty's subjects from being returned to serve in it.

Lord Liverpool renewed the questions he had put to me in private, as to the probable effect of calling the House together every year, and proroguing them again the moment they manifested a disposition to do mischief; to which I answered as I did before, that under such circumstances the Colony would in a manner be without a Legislature; that the gradual amelioration of the laws would be prevented, and that the mercantile and great landed interests must essentially suffer from such a state of things. His Lordship asked me if I thought five or six-and-twenty English members would be a sufficient proportion; I said certainly, but that I did not see how such a number could

* And subsequently Sir James Stuart, Baronet, Chief Justice of Lower Canada, decidedly the first Lawyer in the Province, and one of the most eminent Jurists of his day.—R. C.

possibly be obtained but by a re-union of the two Provinces. Lord Bathurst and Mr. Percival particularly enquired whether I thought that the Assembly, at the next meeting, might be alarmed and intimidated into better behaviour? I answered that I certainly thought they might; that the party were sensible of your vigor and firmness, that they already entertained apprehensions from your having sent me to England, and that if they found you had the decided approbation and support of His Majesty's Government, they would hardly dare to persist in the same line of conduct that was pursued by the last House, although the present was, if possible, even worse composed; but that, till some radical change was made, so as to give to the King's Representative more influence, and to bring into the House a greater proportion of English members, I did not think the evil could be radically cured.

I must not omit to mention that several enquiries were put to me respecting the Militia, which gave me occasion to inform them that the Militia Act would expire at the end of the war, that four or five hundred only, in the towns of Quebec, Montreal and Three Rivers, learned the use of arms. One gentleman observed that he supposed the Militia were under the command of the Inspectors sent out from England. This was to me rather a puzzling observation, as I do not recollect those officers having ever come into contact with that body*: I said that the Militia were under your command as Governor in Chief of the Province, but that I feared circumstances were such as to render it impossible for you at this time to turn them to any good account.†

In speaking of the number of regular troops in Canada (which they wished to learn *from me!*) I took occasion to mention the advantage we had gained by the exchange of the 98th for the 8th Regiment. In short, Sir, during the three-quarters of an hour that I remained with the Council, an infinite number of questions were put to me, which it is scarcely possible I should, nor do I imagine

* Never—their appointments were mere military sinecures at the expense of the Mother Country.—R. C.

† It was said that in fact Sir James Craig held the Militia in utter contempt.—R. C.

you would wish me to, detail. One gentleman only kept silent; this was the Master of the Rolls, who, you know, was in office in Canada some thirty years ago : he appeared to me to be lying *perdu* for the purpose of taking advantage of any incorrectness I might fall into, or of availing himself, after I was gone, of the intimate knowledge he had acquired of Canadian affairs by a short residence in the Province, when I was a boy. To this gentleman's suggestions I am inclined to attribute the namby pamby system of *conciliation* ; or, rather, that desperate line of politics which would make it necessary for a firm and dignified Representative of His Majesty to apologize to a band of contemptible demagogues for having frustrated their attempts to overthrow the constitution of their country.

If I do injustice to Sir William by my surmises, I shall be most truly sorry for it, and I trust that my suggestions will on no account go beyond yourself.

I have the honor to be,

Dear Sir,

Your Excellency's most devoted and
most faithful humble servant,

H. W. RYLAND.

30th August.

P. S. Since I came to town I have had repeated interviews with some of the principal merchants concerned in the trade to the British North American Colonies, to whom I suggested the propriety of their coming forward at this moment to oppose the attempts of the French faction in Lower Canada, to overwhelm the English interests in that Province. The result has been a communication from the Committee of Merchants here to the Earl of Liverpool, of that part of the letter from the Committees of Trade at Quebec and Montreal, which relates to Your Excellency's administration, and I have now the satisfaction of inclosing a copy of their Secretary's letter to His Lordship, on the subject.

I was anxious that this should be sent in before the departure of the September packet, as I am confident it will have a considerable effect on His Lordship's mind by

shewing how decidedly the whole of the mercantile interests concerned is with Your Excellency. Other measures (of which I shall have regular information) are contemplated ; and should the Minister be inclined to bring forward anything in Parliament relative to Canada, I have reason to believe he will be very strongly supported out of doors. At the same time that I mention these circumstances to Your Excellency, I beg you to be assured that I shall be very careful of committing myself with these gentlemen, or of going one step beyond what you would fully approve.

I have dined twice in company with Mr. Atcheson ; once at his own house. He appears to me to be a very active, intelligent man, affluent in his circumstances and much attached to the men at present in power.

The extract sent to Lord Liverpool was from the letter of which I shewed Your Excellency a copy, just before I left Quebec.

Mr. Henry, I find, is arrived at Liverpool, and expects to be in town early in the next month. I shall be particularly cautious in any communications I may happen to have with him.

H. W. R.

To the Right Honorable the Earl of Liverpool, one of His Majesty's principal Secretaries of State, &c., &c., &c.

The Memorial of the Committee of Merchants interested in the Trade and Fisheries of His Majesty's North American Colonies,

HUMBLY SHEWETH :—

That your Memorialists, from the communications which have been made to them by their correspondents in Lower Canada, are much alarmed at the conduct adopted by the majority of the House of Assembly of that Province.

That your Memorialists do not presume to state to Your Lordship the proceedings which have taken place thereon, as they have reason to believe His Excellency the Governor General Sir James Craig has transmitted to Your Lordship official advices on the subject.

That your Memorialists apprehend the system which has recently been acted upon by the majority of the House of Assembly will, if permitted to be continued, render insecure the property of the British inhabitants of the Province, operate as a discouragement to other British subjects settling there, and endanger the tranquillity and safety of the Colony.

That your Memorialists have long felt the existing laws of Lower Canada did not afford adequate protection to the British residents there, in as much as those laws are French, and are inapplicable to the present state of the Colony, And your Memorialists conceive it to be their duty candidly to state to Your Lordship, that so long as the present constitution of the Province remains unaltered, and especially with respect to the manner in which the House of Assembly is constituted, the Colony will not improve either in its agriculture or trade, from the baneful influence which predominates therein, notwithstanding the great encouragement which has been given by His Majesty's present Government to the Province; and your Memorialists regret that so far from a correspondent feeling being evinced by the Canadians towards Great Britain, the majority of the House of Assembly appear determined to oppose the judicious recommendations of His Excellency the Governor General who has uniformly shewn, by the various Acts of his Government, his great anxiety to promote the true interests of the Province.

That your Memorialists regret to observe, the conduct of the majority of the House of Assembly shews they are ignorant of the principles of British Jurisprudence, and evinces a narrow minded and illiberal policy, ill-calculated to conciliate the minds and affections of the people to His Majesty's Government, whilst at the same time their conduct has been most disrespectful to the King's Representative in Lower Canada, whose power they not only seem desirous to infringe, but likewise to assume the functions of the other branches of the Legislature of the Colony, of which they only constitute a part.

Under the circumstances, and from the vital importance of the Colony to the maritime interests of Great Britain, your Memorialists appeal with great deference to Your

Lordship, in the hope that His Majesty's Government will take into their early consideration the political state of Lower Canada; that they will support His Excellency the Governor General in the measures he has been obliged to adopt, and that they will condescend to recommend to the favorable consideration of the Imperial Legislature such alterations in the constitution of Lower Canada as will promote and secure the British interests in that Province.

And your Memorialists will ever pray, &c., &c.

London, 3rd September, 1810.

(Signed,) INGLIS ELLICE & Co,
THOMAS FORSYTH,
JOHN AULDJO,
McTAVISH, FRASER & Co.
MACKENZIE, GILLESPIE, PARKER,
&c., &c., &c.

The other names of the Committee will be obtained to-morrow.

N. A.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, *Saturday, 1st Sept., 1810.*

DEAR SIR,—I was in Downing Street, on Monday last, when I saw Mr. Peel, for a moment; he told me he expected Lord Liverpool in town that morning; that His Lordship would bring with him memorandums for a despatch to you on Canada affairs, and that as soon as this was completed, he himself should go for a few weeks into the country. He mentioned that they had received a representation from the merchants; and, from his manner, I could collect that it had not been entirely without effect; but he did not open himself either on this subject or on the intended instructions to Your Excellency.

Mr. Peel is a very elegant young man, of fine talents, as I am informed, and very pleasing manners: whenever I have met him, either on business or in private, he has always shewn me the most marked attention. I have, however, been cautious not to hazard any enquiries that might be deemed impertinent, and I have made it a rule to urge

those points which you instructed me to press on the attention of the Secretary of State, without appearing to be inquisitive as to what would be the result. A further acquaintance will, probably, bring with it a greater degree of freedom; in the meanwhile, I am not without hope that the particulars I am able to communicate may serve, in some degree, to elucidate the instructions sent out to Your Excellency, and to shew how far the measures you have proposed, with respect to Canada, are likely to be adopted.

On my informing Mr. Peel, that I should take the liberty of waiting upon the Earl of Liverpool once more before the September mail was closed, he said he was sure His Lordship would be glad to see me at any time. I did call again yesterday at the office, and saw Mr. Gordon, but Lord Liverpool was not in town. Mr. Gordon begged I would let him have a memorandum concerning the mode in which your despatches should be forwarded, so as to reach you with as little delay as possible.

From his description of Lord Camden, I conclude that nobleman was at the Cabinet Council when I was before them; but the Marquis of Wellesly, I think, was not.

I have lately had a most friendly letter from Lord Spencer, who is now at the Isle of Wight, where he is building a house; through his connection with Lord Camden, I shall hope, when he comes to town, notwithstanding his being in opposition, to obtain a channel of much freer intercourse with the Ministry than I have at present. I shall not fail, however, to bear in mind your injunctions in any communications I may have with Lord Spencer concerning Canada affairs.

Monday, 2nd September.

I am just returned from Downing Street, where I saw only Mr. Gordon, the Earl of Liverpool and Mr. Peel being out of town, and so indeed is everybody else; and as there is now no chance of anything further being done in Canada affairs for the present, I purpose going into the country as soon as the mail is closed, to see my children.

I have left a memorandum with Mr. Gordon, requesting the despatches for Your Excellency may be put under cover to Mr. Barclay, and I shall take the liberty of writing

to that gentleman to desire he will be so good as forward them to Quebec by a special messenger. I trust they will reach you all in October, and, if so, that I shall receive your final instructions by the fall fleet. I shall be very anxious to know the result of the proceedings against Bedard, etc., and what opinion has been transmitted to you on the subject; also, what directions have been given by the Secretary of State, in consequence of the representations contained in any of the despatches I brought over.

If anything is done in Parliament, or if any strong and decisive measures are adopted by His Majesty's Ministers, with regard to Canada, I shall return with alacrity and satisfaction; but if no effectual steps are taken for the purpose of accomplishing the great objects to which Your Excellency has called their attention, I trust you will approve of my remaining here till the spring, as the coming express, as it were, without some material point being gained, will only render disappointment more conspicuous, and add to the mortification and disgust I shall ever afterwards feel in all that relates to the Province in which I am doomed to pass the remainder of my days.

Tuesday Evening, 4th September.

I have been again to the Secretary of State's office, where I saw only Mr. Gordon, the Earl of Liverpool not coming to town. On entering the room below stairs I was a little surprised to find Uniacke waiting for an audience. We shook hands heartily, and made mutual enquiries about each other's arrival in town, etc. It seems he came but two days ago. He went from Quebec to Halifax, I suppose to ask advice of his papa, who, I have been told was in England some time last year, and a good deal with the leading merchants concerned in the North American trade. — mentioned to me that Governor* , from , had been at Halifax, and came home in the fleet with him, that the Assembly of that Island had been very refractory, and that he had committed the Speaker to prison. Mr. — seemed inclined to make some comparison, but as I am too well acquainted with, what was at least, the cha-

* Lumley of Bermuda probably.

racter of to admit the possibility of comparison between such a man and Your Excellency, I declined entering into the subject. I am apprehensive that what has taken place at may rather retard than accelerate the adoption of a plan for Canada.

I went up to Mr. Gordon as soon as Mr. Uniacke came down from him. Our interview was short, but I did not neglect to avail myself of it to repeat the observations I had before taken occasion to make concerning him, and, also, the strong reason you had for desiring that Mr. Bowen might be appointed Attorney General. He remarked that Mr. U. had hesitated to accept the situation, from an apprehension that he would not be equal to it. As Mr. Gordon seemed to think that Lord Liverpool would wish to see me if he came to town, I shall call at the office again to-morrow, and will endeavor to let you know if anything deserving of notice occurs.

I this morning received from Mr. Acheson a copy of the memorial intended to be presented by the merchants concerned in the trade to Canada, which I shall inclose together with his letter. The memorial is ill drawn up, but I hope it will produce a good effect, especially as some of the principal subscribers are strongly connected with the opposition.

I have the honor to be,

Dear Sir,

Your Excellency's most devoted and
most faithful humble servant,

H. W. RYLAND.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, *Saturday, 8th September, 1810.*

DEAR SIR,—I delivered my letters for Your Excellency, Nos. 3, 4, and 5, to Mr. Gordon, on Wednesday last, they were under cover to Mr. Barclay, and I trust they will reach you sooner than by the ordinary route from Halifax to Quebec.

Mr. Gordon informed me that Lord Liverpool's despatch was sent to the King, and I am led to conclude that no-

thing further will be done for the present. If the orders sent to Your Excellency by this opportunity are of the kind and spirit you wish to receive, it will afford me inexpressible satisfaction ; but from all which has passed, I cannot help fearing that the Ministry will hesitate to adopt the decisive measures you have recommended.

Lord Liverpool was not at the office when I went there on Wednesday, being just gone to Court. Mr. Gordon had informed His Lordship that I should be ready at any time to attend his commands, but that if I was not wanted immediately, I should go into the country for a short time after this mail was closed, to see my children. He told me he thought the mail would be detained till Monday, and I am now going to him with this letter. Mr. Gordon is vastly civil, but I find an infinite difference between transacting business with him and Mr. Peel. I cannot help feeling for the latter a peculiar esteem, and I flatter myself, that in the course of the winter I may be able to acquire a considerable degree of intimacy with him.

I have taken up Mr. Duchesnay's mandamus, which I enclose in an open letter, and would beg, if Your Excellency sees no objection, that it may be sealed with a common seal, and sent to him. I observe the mandamus is dated as far back as the month of December, 1808.

I have the honor to be,

Sir,

Your Excellency's

&c., &c., &c.,

H. W. RYLAND.

SIR JAMES CRAIG TO MR. RYLAND.

QUEBEC, 10th *September*, 1810.

MY DEAR RYLAND,—We are now arrived at the period when we expected to have heard of your safe arrival, but we have not yet had that good fortune ; indeed the eternal westerly winds of this summer have been most unpropitious to our communication. The last accounts we have, that is by regular series, are only to the end of June, though there are two or three straggling papers so low as

12th July,—none of these could convey any intelligence relative to the arrival of the little Sally. The June mail is even not arrived, although we know the packet has been at Halifax near a month ago,—so well is that matter regulated. I think you might take an opportunity of talking to Mr. Freeling on the subject.

I have little to add to what I wrote you by the last convey. Indeed I told you then I did not expect to have much to say till I heard from you. I had then released Blanchette and Taschereau. Soon after the liberation of the latter, Bedard sent me a petition; the tenor of it was, that he had acquiesced in his imprisonment on the supposition that I and the Council had such information before us as induced us to believe that measure to be necessary for the public good; but as we must now be convinced that such information was without any foundation, he prayed to be released, or otherwise that he might be brought to trial. This petition I happened to receive while I was in Council. I therefore immediately communicated it to that Board, and it was considered as not being such as could be attended to. When B.'s nephew therefore applied to Foy, to know if there was any answer to it, he was told that the petition had been laid before me, but that I had not given any directions on the subject. In the course of a second application Foy had some conversation with the young man, in consequence of which B. asked to see the petition that had been presented by Blanchette and Taschereau; Foy replied they were official papers that he did not think himself at liberty to show. On this second application for an answer to his petition, he was told that it was not of a nature to receive any answer. Bedard then wrote to Foy, to request that he would apply to me for permission to communicate the petitions of the others. This I did not choose to do; but wishing to give him a fair opportunity of extricating himself if he chose, I sent for his brother the priest, who I knew was in town, and in the presence of the Chief Justice and Foy I addressed him, as near as I can recollect, as follows:—

“I have received application from your brother, by which I am led to suppose he wishes to be directed in the petition that it would be proper for him to present; and as

I am desirous of acting towards him with the same frankness and candour that I have always observed on other occasions, I have therefore sent for you, Sir, as the most proper channel of communication with him ; and to prevent the possibility of any mistake in what I have to say, I have requested these gentlemen to be present.

"Your brother chose to pursue a line of conduct which threatened to throw the country into a flame, and therefore obliged me to have recourse to those means for preventing it with which the law has furnished me. I have no enmity to Mr. Bedard. I do not even seek his punishment. All I desire is the preservation of the public tranquillity, and the moment I have that security that he will not resume his attempts to disturb it, that I can alone look for in a confession of the consciousness of his error in what he has done, I shall have great pleasure in consenting to his enlargement."

Two days after the Priest came to me, and asked my permission to read a note which for greater accuracy his brother had written to him, as what he wished to say. It was exceedingly respectful and civil. He desired to express his acknowledgments for the generosity of my sentiments towards him, and to assure me that if he could be convinced by any man in the world that he had been in fault, it would be on finding that I thought so ; but as that conviction must arise in his own mind, he must be content to submit to his fate.

This passed about a fortnight ago, and since then I have not heard from him. I give you this account lest there should be any desire expressed to know how that affair stands. I have now an intricate affair before me : A *curé* of the name of Keller brought me a few days ago a petition from himself and a very large body of his parishioners. This unfortunate *curé*, *par paranthèse*, is an instance of the power exercised by the Catholic Bishop, having been about five years ago removed by his sole authority from a very good parish to that which he now possesses, which is one of the poorest in the Province. It was in Denaud's time. His present parish is somewhere behind Berthier. The object of his present petition is that I would erect the district he serves into a *legal parish*. - The

case is, that it is not otherwise a parish than as having been so constituted by the Bishop's sole authority, and having lately begun to build a church, the authority for which was conceded under the usual forms by the Commissioners at Montreal, when no question arose as to the establishment of the parish. *Quelques malintentionnés*, as he says, have now insinuated themselves among the people, and have persuaded them that the district never having been legally erected into a parish, they cannot be compelled to pay their assessments towards the building the church. This has thrown them all into confusion, the only remedy for which appears to be an application to give them the necessary form. I asked him if the Bishop knew of his application; he said no, though he had some time ago in conversation told him that he should apply to me. This would bring the point to issue at once, and there never could be a fairer opportunity for exerting the King's right, when it could be done on the express application of those whom it particularly regarded. Yet am I extremely unwilling to begin anything on that subject, before I know the intention of His Majesty's Ministers. I have Chief Justice Monk's opinion, which is decidedly, that it is His Majesty's sole prerogative to erect parishes; and that the ordinance of the 30th April, 1791, is null and void, as militating against the king's supremacy, and as touching religion, and never having received His Majesty's assent, and for other reasons, as pointed out in the Chief Justice's report when Attorney General, which was sent home by Sir Robert Milnes, and must be in the Secretary of State's office. I wish indeed you could prevail on them, if they will do nothing else, to submit that report to the opinion of the law officers at home. I am almost afraid to bring the question forward here; at any rate I shall endeavour to stave it off till I see the complexion of your first communications. I have had another petition upon pretty near the same subject, from the inhabitants of the concessions at the back of St. Augustin. In this instance the *curé* has gone to very unjustifiable lengths of abuse, and I believe even of refusing the sacraments to those who made the application to His Majesty's Government in matters regarding religion. The petitioners rather shrink from

sustaining this latter complaint, and I fear I should not be able to prove it, otherwise I should certainly move an information against him for so daring an act of contumacy. This was likewise about erecting a parish, or rather the joining them to a parish already erected. De Plessis is still out on his tour, so that I have not seen him since these transactions.

Our road is going on, though it proves rather a more difficult business than we expected; that the soil is less favourable, and the weather has been unusually adverse; however, such has been the effect that beef is fallen in the market from 7½d. per lb., to, as I am told. 4½d., though the last time I enquired of Wilkie it was 6d., but that was some days ago, and I have not the opportunity of asking now as he is in town. This, however, is certain, that Anderson has sent me an offer to contract to furnish the troops for six months at 3½d. The meat too, both beef and mutton, is incomparably better than we had before. From some circumstances that have been noticed lately, there is great reason to suspect that from the insufferable indolence and want of knowledge of the Canadians, the agriculture of the Province, instead of being with that of all the world, in a progress of improvement, is, on the contrary, going backwards, and yearly becoming less and less productive. The produce of an acre is believed to be now, in many instances, scarcely above a third of what it was five and twenty or thirty years ago. That I think must be an exaggeration; however, it is a subject worth enquiry, and if the suggestion appears to be well grounded, it will be a subject worthy the deliberative wisdom of Parliament.

The enterprising Jolliffe has begun a new speculation, which I am assured bids fair to outdo all the others that are now going on in this wonderful beehive of business. It is ship building at William Henry, where I have leased him a lot of ground for the purpose. He has already four vessels on the stocks, one of four or five hundred tons. He has set them all alive. Houses that were empty before now let for £40 and £50.

I am still out here at Powel Place, but shall go into town in a few days, as the weather begins to be more pre-

carious. I find my being here interferes with my business. My 16th* went off as usual,—a wonderful fine day ! although it rained, I believe, for a week before, and has scarcely done anything but rain ever since. After being so doubtful about our harvest as to occasion an enquiry by a Committee of the Council, we now find that it will, at least there is every appearance that it will, be better than that of last year, although from Three Rivers to Berthier it has failed almost entirely.

Yours most faithfully,

(Signed,) J. H. CRAIG.

Remember me kindly to Mrs. Ryland.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, *Tuesday, 11th September, 1810.*

DEAR SIR,—Just as I was about to set off for the country yesterday, I received a note from Mr. Gordon informing me that if I was still in town, Lord Liverpool would be glad to see me this morning at the office, so I let Mrs. Ryland and George proceed by themselves, as she had made her arrangements to be with the other children at a certain time, and I am now returned from waiting on His Lordship. He has had the goodness to read to me his public despatch to Your Excellency, the purport of which is nearly such as I expected. His Lordship candidly stated the reasons why His Majesty's Ministers could not, without stronger grounds, venture on bringing the affairs of Canada before Parliament. He particularly remarked that Lord Grenville, as father of the Canada Act of 1791, would rally his whole strength in support of his own child ; that an outcry would be raised concerning the *oppressed* Canadians, etc., etc. In short, Sir, I felt persuaded that, as matters stood, you would not think it decorous or expedient for me to offer any observations in opposition to what His Lordship has stated in his despatch as the reasons for not adopting, at this time, the more decisive measures which you have proposed. His Lordship had the goodness to observe, that there were sev-

* Alluding to a *fête champêtre* he had given on the 16th August.

eral points which did not require legislative interference, particularly the ecclesiastical affairs of the Province, and he gave me full liberty to call his or Mr. Peel's attention to them at any time, saying, that they should be taken up in the course of the winter.

Previous to His Lordship's coming to the office, I was for some time with Mr. Gordon, who read to me in part the Attorney General's opinion, on the case of Bedard, etc., which is expressed in general and very cautious terms. After all, were His Majesty's approbation of Your Excellency's conduct marked in that public and decisive manner which I could wish, I am persuaded that this measure alone would beat the factious party to the ground; and I shall not hesitate, on all fair occasions, to express my sentiments on this head with freedom in proportion as I obtain a more confidential intercourse with the men in power.

I flatter myself, that by the fall fleet, I shall have Your Excellency's instructions as to any particular matters which, "under existing circumstances," for I cannot think of a more appropriate phrase, you may wish me to press for a decision upon during my stay in England.

Just before I went up to Lord Liverpool, after coming from Mr. Gordon, Mr. Uniacke came into the attendance room below stairs, but nothing passed between us except a mere "how do you do;" and as I was coming away Mr. Amiot, our Provincial Secretary, sent to ask to speak with me. He apologized for not having called upon me, said he had been out of town, etc., etc., and ended by asking me whether, as a mode of letting Mr. Uniacke down easily, he might not be permitted to exchange with his, (Mr. Amiot's,) friend, Mr. Frith, the Attorney General of Upper Canada. I told him most decidedly that such an arrangement would not meet with Your Excellency's approbation; that you had already appointed Mr. Bowen to act as Attorney General, and strongly recommended him as the fittest person for the situation, and that I was confident if Mr. Frith could bring about the exchange, that he would not be a month at Quebec before he heartily wished himself back again in Upper Canada, so Mr. Amiot said he should advise him not to think any more of the matter.

**LORD LIVERPOOL TO GENERAL SIR J. H. CRAIG, WITH
ANSWERS OF THE CROWN LAWYERS TO SEVERAL
QUERIES PROPOSED.**

DOWNING STREET, 12th Sept., 1810.

SIR,—Having judged it advisable to state, for the opinion of His Majesty's Attorney General, several questions arising out of the present situation of affairs in the Province of Lower Canada, and connected with the proceedings which have lately taken place there, I think it right to transmit for your information a copy of the paper so referred, together with the answers and opinion of the Attorney General thereupon.

I am,

Sir,

Your most obedient humble servant,

LIVERPOOL.

Lieutenant General

Sir J. H. Craig, K. B.,

&c., &c., &c.

1. Whether after the 31st of the King, cap. 31st, intituled, "An Act for making more effectual provision for the Government of the Province of Quebec in North America," the Parliament of the United Kingdom would be warranted in making any alteration in the constitution of that Province, or of Upper Canada, as established by the said above recited Act?

2. Whether it would be competent to the Parliament of the United Kingdom to unite the two Provinces of Lower and Upper Canada into one Government, with one Council and Assembly, and to make in that case such further regulations for the Government of the said Provinces as might appear to be expedient?

3. Whether the Governor having, in consequence of the 14th section of the above recited Act, issued a proclamation for dividing the Province of Lower Canada into Districts, Counties, Townships, &c., and appointing the limits thereof, and declaring and appointing the number of Representatives to be chosen by each of such District,

County, Township, &c., it would be lawful for the said or any future Governor, with or without the authority of His Majesty, to make any new division of the Districts, Counties, Townships, &c., and appoint new limits thereof, and declare and appoint the number of Representatives otherwise than first proclaimed, without an Act of the Legislature of the Province and Assembly for that purpose ?

1. I think that the Parliament of the United Kingdom would be warranted in making such alterations in the constitution of the two Provinces of Upper and Lower Canada, established under the 31st George III, cap. 31, as the necessity of the case, evidenced by the experience which we have had of that constitution, may require ; but it is to be expected that the ground of this necessity will be scrupulously enquired into and discussed by the Parliament here, and that any change which is effected, however necessary it may be, will create great dissatisfaction in the Provinces among those whose power and influence is controlled by it.

2. I think that it would be competent to the Parliament of the United Kingdom to unite the two Provinces of Upper and Lower Canada into one Government, with one Council and Assembly, and to make in that case such further regulations for the Government of the said Provinces as may appear to be expedient.

3. I conceive that neither the present nor any future Governor can make any new division of the districts, &c., nor appoint new limits thereof, nor alter the number of Representatives which was originally fixed by the Proclamation issued under the 14th section of the 31st George III, cap. 31. It seems to me that the power given by that section can be exercised but once, and that when His Majesty has once authorised the Governor to exercise it, and he has exercised it accordingly, no alteration can be effected in the division and declaration which he has made, except by an Act of the Legislative Council and Assembly of the Province, with the assent of His Majesty, or by an Act of the Parliament of the United Kingdom.

With regard to the two questions proposed by Mr. Ryland, in his memorandum which I have marked A, I

cannot say that the paper published in "Le Canadien," and upon which the proceedings of the Council were founded, are such as fix upon the publishers the charge of treasonable practices, and therefore it may be difficult strictly to justify the steps which have been taken against them; but the passages which are adverted to were certainly calculated to do much mischief in the Province; they might, I think, be prosecuted as seditious libels, and with the apprehensions which were entertained of the effect of this paper, it may have been excuseable to resort to means not strictly justifiable in law for suppressing it.

(Signed,) V. GIBBS.

22nd August, 1810.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

Cocklade, Tuesday, 2nd October, 1810.

DEAR SIR,—Since I last had the honor of writing to your Excellency nothing has occurred deserving of particular notice. I remained at Hinckley with my children till Saturday last, when I left it with Mrs. Ryland for this place. Whilst I was there I was honored with several visits by the Rev. Mr. Nicholls, Dean of Middleham, who I find is your old acquaintance. He has requested me to forward the enclosed letter concerning a young man of the name of Green, in whom he takes some interest, and who is gone out to Canada in the expectation of being employed in the Commissary General's Department. His father is a wealthy manufacturer at Hinckley, and I have endeavoured to convince him that he might have done much better for his son by keeping him at home, and that there is but little prospect indeed that he can be employed to advantage in Canada.

I am informed that Mr. Peel is not yet returned to town, nor will he, I expect, while this fine sporting season continues. I shall return, myself, the moment I find that the men in office are beginning to collect, and that there is a chance of engaging their attention; though I shall be at a loss how to proceed till I am honored with Your Excellency's answer to my first letters, which were forwarded by H. M. S. Argo. I received one from Mr. Richardson

the other day, with your name on the corner, but have had nothing direct from you, except William's letter enclosing Bishop Denaud's memorial to Sir Robert Milnes. I cannot deny myself the satisfaction of adding, that Lady Milnes is in perfect health, and more beautiful if possible than ever.

I have the honor to be,

Dear Sir,

Your Excellency's

Most faithful and most humble servant,

H. W. RYLAND.

P. S.—We are in momentary expectation of hearing of a decisive battle in Portugal, which I pray God may be in our favor.

SIR J. H. CRAIG, K. B., TO H. W. RYLAND.

QUEBEC, 26th October, 1810.

MY DEAR RYLAND,—I have been very ill since the middle of last month, and though I believe recovering, it is but slowly, and it is by means of a discipline little less severe than the malady itself, which after all, I fear it will only palliate, not cure. I write only to say that I am still without a word from you, though the August letters are arrived. The only letter from you is one to Thornton, written from Plymouth, and before you were landed. I need not repeat my anxiety to hear from you. I have been too ill to look to any business where my interposition was not indispensable. Of course I can have little to say to you. My road is finished; I expect the parties in to-morrow. The Yankees are loud in the commendation of the execution. They say it is a better road than is ever made through a new country in the States. Beef by the quarter sold in the market this morning for 3½; but my friends of the Lower Town have found out that this is not the object, which, they say, is to prepare the way for bringing in a number of members to the House from that part. I hope by the next convoy, which will sail the 15th, to have to write to you more fully. I hope you will have seen my brother before this reaches you. Sir Hew Dalrymple writes me that he was sorry he was out of town when you called.

All your friends are well. Ross Cuthbert has met with an unpleasant accident, by which he has received an injury in his knee that may be troublesome. He is, however, indefatigable in his employments, to the great benefit of the public. He lately fined a Notary 10s., for being drunk in the streets at an early hour in the morning. I was glad it was an Englishman; but he says he did not conceive it possible that there could be so much depravity and wickedness, of every species, in one place, as he finds among the lower class of Canadians here.

My best regards to Mrs. Rayland.

Your's ever,

J. H. CRAIG.

QUEBEC, 6th November, 1810.

MY DEAR RYLAND,—I wrote to you by the Bonne Citoyenne, on the 26th October, and then promised that my next should be by the convoy of the 15th, but the Argo, which we understood to be the ship destined for that service, has not yet made her appearance, and we now give her up. I therefore take the advantage of a very fine ship, the Clifford, which sails to-morrow, and by which the Jolliffes go to pass their winter in London, to renew the complaint that I have not yet heard from you, although it has not acquired any additional strength, for there has been no opportunity by which I could have heard from you. I have sent, also, a despatch, by the opportunity, to Lord Liverpool. There is nothing in it that it is particularly necessary that you should know, and I have not time to copy it.

Though my road has effectually operated to cure the evil of the want of meat, with which we are now amply supplied, yet I fear we are likely to be exposed to even a more distressing deficiency in the produce of our harvest. It has been extremely unfavorable, and flour is risen to a high price. I know not where we are to look for assistance if it should become necessary.

We have been praying for the deliverance of the Pope here. I enclose you a copy of the Bishop's *Mandement*, which you may show at the office, as an instance of the

complete *independence* that is assumed. It was not even mentioned to me either before it was issued or since. We have reason to suspect that through the means of Dr. Milner, with whom Plessis certainly corresponds, there is a communication with the Catholic Bishops in Ireland, who I have no doubt will instigate this man to resist to the utmost the acknowledgment of the King's supremacy. There is a young man of the name of Christie,* who served his clerkship with Bowen, and who has just received his commission to act as a Barrister. This young man is going home immediately, and without one possible motive personal to himself, that can be assigned for his doing so. He has prevaricated in giving his reasons two or three times, and never mentioned the subject to Bowen till his going appeared completely settled. He now makes an appearance for which he certainly has not the means, and seems to be at no loss for his subsistence while at home. He is very intimate with Plessis, and we strongly suspect is going home as an agent of his, for some purpose or other, probably to communicate more intimately than they choose to do by letter with Milner or the Irish Bishops.†

The Priests certainly do their endeavours to estrange the people more and more from us. A young man who lived with a Mr. Mitchel as a clerk, mentioned to his Confessor the difficulty he found himself under, on account of the family not keeping maigre; when, after giving him directions on the subject, the latter added, with great warmth,

*To wit: the publisher of this volume, who, on the expiration of his clerkship, visited England, wholly for his own amusement, and at his own expense, little dreaming his movements could be of interest to any living soul but himself, much less give rise to the absurd conjectures here expressed by the worthy and sagacious old Governor in Chief, and the solicitude of his Attorney General, or other equally shrewd but impertinent catechisers, who, it seems, suspected the "young man" of a mission to "communicate with Milner or the Irish Bishops," and were rather unnecessarily alarmed on the occasion!

† Bishop Plessis was a benevolent and kind-hearted man, remembered by the publisher with feelings of high respect; but he never, it is almost needless to say, entrusted the "young man" in question with any such mission, or commission of any kind.

and not at all as applying to that difficulty : Mais pourquoi demeurer dans une famille anglaise, je ne veux pas que vous y restiez, il faut la quitter. The young man said he thought it so abominable, and so little connected with confession, that he told the story, which has been brought to me. There have been one or two other instances with regard to servants. These little occurrences show the disposition, at least.

I suppose some of your other friends will give you the chit chat of the place, to which I am little equal, for I am still far from well, so I will take my leave.

Your's ever,

J. H. CRAIG.

The Bishop's Mandement is no otherwise exceptionable; on the contrary, it seems guardedly drawn up. I only send it to show the independence he assumes.

QUEBEC, 9th November, 1810.

MY DEAR RYLAND,—I wrote to you on the 6th, but a vile easterly wind having come on just as the Clifford was going to sail, I have the means of sending you another letter, which I am inclined to do, upon a subject which was communicated to me yesterday. I have seen the Memorial of the merchants trading to this country, which Mr. Atcheson was to present to Lord Liverpool in September. It is strong, though I am not at all disposed to say that it is more so than is required by the occasion. One copy only has been received here yet; Mr. McGillivray got it from his brother. It has been handed about among the English, but is not yet public. Among them it is highly approved; but what will be the sensation when it comes to the knowledge of the opposite party, it is not difficult to foresee.

It has been communicated to me, that it is in contemplation, with the Committee of Merchants at this place and at Montreal, to present a petition to suspend the present constitution of this country, during the present war, and for five years after, during which period it should revert to its former Government by a Governor and Legislative Council. This exactly meets my idea; but in the

sketch that has been as yet formed, they recommend an increase in the number of which the Legislative Council should be composed, and this increase, if carried to any extent, is *what I think should be avoided*. In the former case, the Council was to consist of not more than 23, or less than 17. I would not now have them more than 31, or at most 35. Several reasons weigh with me to be of this opinion; but the principal is, the extreme difficulty of filling it with proper people, beyond that extent, at least, without giving a preponderance to some particular interest, which ought certainly to be avoided. A reasonable proportion of Canadians must also be of it, perhaps a *third* at least. Now, where shall we find more than a dozen of that class, who will not exert their utmost endeavours to clog the proceedings with difficulties. They may, indeed, be over-ruled; but they will then clamour, and have recourse again to their parish orators to keep up the ferment. I do not find that in the last Legislative Council there was any President. Surely there should be one at the nomination of the Governor, either each Session, or during pleasure. The latter would give more dignity.

I think of calling Parliament together in December, letting them choose their Speaker, and then proroguing them immediately. However, I have not yet finally settled it. It will ensure, beyond any controversy, the continuance of two temporary acts in existence, which expire on the first of January, or at the termination of the next Session, and I think it may be advisable to have it over before I receive any instructions, or before we get information of any measures which may be likely to be adopted at home, the consequences of which I can then consider at leisure, without being hampered by the necessity of calling them perhaps immediately, for you know they must at any rate be assembled before the 23rd February.

I have not yet made up my mind as to the question of simply proroguing them without saying anything, or telling them that having reported the extraordinary events that have taken place, I wait Her Majesty's instructions. The former will be more expressive of alienation from them, the latter will be a little more conciliatory. Neither will prevent violent clamour and determined abuse.

Still without a line from you, although Kempt received a present from you yesterday, which came by the Cumberland. Some accident has certainly happened to the Argo. Adieu.

Yours,

J. H. CRAIG.

P.S. The original of this goes by the Clifford, this by the Wilmot under the charge of Major Heathcote. I have finally determined upon the measure of calling Parliament in December, the Proclamation will be out on Thursday.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, *Saturday, 9th November, 1810.*

DEAR SIR,—Since I last wrote to your Excellency I have been honored with two letters from you, one dated 6th August, which reached me the 4th October, and another *without date*, but evidently subsequent, which I received on the 28th of that month.

The extraordinary state of suspense and anxiety in which the administration, (and indeed the whole nation,) has been placed for a length of time past, has precluded all idea of renewing my attendance at the Secretary of State's Office, with a view to the transaction of public business. I have, however, prepared memorandums to be submitted to Lord Liverpool, relative to those subjects mentioned in your despatches, *which do not require legislative interference*, particularly the proposed assumption of the patronage of the Romish Church, the erection of parishes, and the final disposal of the Jesuits' and Montreal Seminary Estates, as matters of the highest importance towards giving to the Crown its due weight and influence in the Province. But it would be perfectly useless, and might even do more harm than good, were I to attempt bringing anything forward at the present momentous crisis. Whenever it becomes advisable to renew these subjects, I shall not fail to avail myself of the particulars mentioned in Your Excellency's last letter.

I was at the Secretary of State's Office yesterday, and saw Mr. Peel for a moment, but merely announced my return to town, and asked leave to bring him my letters for Canada to-day. He and all the other public functionaries of a certain description are in a state of utter uncertainty with regard to their remaining in office. Lord Spencer is expected in town in the course of next week. I passed some time with his mother yesterday, and had the happiness to find her in surprising good health, and really looking as well as she did twelve years ago. I hope soon to obtain channels of correct information as to public affairs, and you may depend on hearing from me every particular that is deserving of credit and attention. I went yesterday, by desire of the Countess Dowager, and put my name down at St. James'; she said I ought to consider myself as chargé d'affaires from Canada. All the world was there enquiring after the poor King. I cannot add anything to what you will find in the public papers. I have ever been confident of success in Spain and Portugal, and especially since the meeting of the Cortes, which body, I am persuaded, is competent to the utter overthrow of Buonaparte's power. We have a set of desperate revolutionary rascals in this country, who find fault with everything, and would, if possible, destroy every thing; but I trust in God they will be kept under. I should hope the fate of Cobbett will have some effect in Canada.

I must now hasten to the office with my letter, as the mail is to be closed this afternoon. It rains, and has done so for these ten days past, as if heaven and earth would come together. I will call at General Craig's to-morrow or next day, and hope I shall at length be so fortunate as to get access to him.

Mrs. Ryland desires to present her best respects to Your Excellency.

I have the honor to be,

&c., &c.,

H. W. RYLAND.

P. S.—In my first letter I acquainted Your Excellency that I should send duplicates, but the particulars I have entered into are of such a nature that on reflection I have determined not to risk doing so, unless there should be an

absolute necessity for it. I will not forget the _____,
nor any other commission you may honor me with.

H. W. R.

MR. RYLAND TO SIR J. H. CRAIG, K.B.

LONDON, *Thursday, 15th Nov., 1810.*

DEAR SIR,—I had the honor of an interview with your brother on Tuesday, and I am truly concerned to inform you, that I found him in a very weak state of health. He was in the room below stairs, and Sir T. Trigg sitting with him. After the latter was gone he told me that Lady Dalrymple was going to write to you concerning Miss C., who it seems has had a disagreement with the lady who had the care of her, and in consequence of it has left her house. At the same time he begged me to mention to you, that she is now eligibly placed, and that he has sent her whatever she was in want of. I took the liberty of offering Mrs. Ryland's services, in case she could in any way be useful to her.

I was yesterday with Sir H. Dalrymple, who did me the honor to call on me the day before; but Her Ladyship I had not the good fortune to see. He agrees in opinion with me, that the ministry are too weak to enter on any decisive measures with respect to the Government of Lower Canada; that the main object of all their endeavours is to retain their places, and to avoid as much as possible every subject that may call for public discussion. From him I went to St. James' Place, where I found Lord S. just arrived from the country, and passed some time with him. In the course of conversation he expressed himself much obliged to you for your kindness to Hawdon, whom he continues to take an interest in. I touched but slightly on the politics of Canada; but from what I know of His Lordship's sentiments, I feel confident that, in case of his coming into power, Your Excellency will have in him a firm supporter of your administration.

Tuesday, 27th November.

I called this morning on Mr. Peel; he admitted me the moment I sent up my name, but appeared very dif-

ferent from what I have been accustomed to see him, owing, I imagine, to the peculiar situation in which Ministry find themselves just at this moment. I told him I came merely to pay my respects to him; that I did not suppose any further discussion of Canada affairs could take place at present, but that I should be ready to attend at any time when he or Lord Liverpool thought I could be of service. He seemed quite *distract*, and I did not stay with him above two minutes.

Thursday Night, 29th November.

I had a letter from Lord S. yesterday, enclosing one which he had written to me by Captain Warren of the *Argo*, who it seems has made an unsuccessful attempt to get to Quebec, and is now returned to Portsmouth. My letters to Your Excellency, Nos. 1 and 2, were put on board his ship, and it is an infinite mortification to me that they should not have reached you. I feel it the more from having this moment received yours of the 26th October, in which you express so much disappointment at not having heard from me. I flatter my myself that my Nos. 3, 4, 5, 6 and 7, which went by the September packet, and contained every particular that I thought could be interesting to Your Excellency, have been more fortunate. I understood that the August mail was closed before I saw Lord Liverpool, and finding that the *Argo* was to sail for Quebec about the middle of that month, I trusted to it as being much the safest and speediest conveyance. If my subsequent letters have reached you, the two first will not be of much consequence; however, I shall send duplicates of them by this opportunity. My letters by the packet, as well as Lord Liverpool's, were put under cover to Mr. Barclay, to whom I wrote, requesting he would forward them by express.

It gives me inexpressible concern to hear that you have been so unwell, and I fervently pray God to restore you to health. Before I close my letter Your Excellency will probably expect one word from me concerning the state of political parties at this moment. With respect to the Ministry, although they are evidently very weak, it appears to me that they have a certain majority in their favor, and should His Majesty recover, and more especially should

Lord Wellington be successful in Portugal, (of which for some time past I have not entertained a doubt,) it is most probable that they may be able to retain their places for some time longer. The opposition, if it may be so called, seems to be broken into fractions (or factions) that cannot easily be united.

The three most prominent characters are Lord Spencer, Lord Moira, and Lord Grenville. These are considered as devoted to the *Prince*, and under them, I have reason to think, the new administration will be formed, were any event to throw into His Royal Highness' hands the reins of Government. It is probable Mr. Canning's abilities would also be placed in the same scale. Sheridan would come in of course; but of other inferior personages I am unable to speak. Lord Grey is said to have had a serious misunderstanding with His Royal Highness, but for the truth of this report I cannot vouch. In short, Sir, the situation of things in this country just now is altogether the most extraordinary that has occurred since the commencement of the present reign; and it is scarcely possible to form any well-grounded conjectures as to what may be the state of the administration two months hence. I shall not fail by every opportunity to transmit Your Excellency the most correct information that I am able to obtain with regard to all those public objects in which I think you will take an interest; and you may be assured that I will omit no occasion of soliciting a final determination on those matters in particular which you have authorised me to press upon the attention of His Majesty's Ministers.

I have the honor to be,

Dear Sir,

Your Excellency's

Most faithful humble servant,

H. W. RYLAND.

P. S.—I transmitted Your Excellency Mr. Duchesnay's mandamus to the Legislative Council by the September mail, and if by chance it should not arrive, there are precedents sufficient to justify your issuing a summons in his favor, should you think proper. Vide the case of J. Young, &c., who was sworn of the Executive Council, though the mandamus miscarried.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

Thursday Night, 27th December, 1810.

DEAR SIR,—Since I last wrote to your Excellency (29th Nov.,) I have had the honor to receive yours of the 9th Nov., (original and duplicate,) with a P. S. of the 12th, also one from Col. Thornton of the 5th, and two other letters from Quebec by Mr. Stewart, dated as late as the 20th November. A gentleman from the General Post Office called on me a few days ago, to inform me that the September packet reached Halifax the 3rd, and New York the 17th of November, by which conveyance you will receive Lord Liverpool's general answer to the despatches which I brought over, together with my letters, numbered 3, 4, 5, 6 and 7, all under cover to Mr. Barclay; and as I wrote to request he would forward them by express, and Mr. Stewart tells me the St. Lawrence was quite free from ice when he sailed, I flatter myself I may yet receive an acknowledgment of them by way of the river, as I calculate they would reach Quebec about the 27th. It is impossible to express how anxiously I look for your answer to these letters, but you may form some idea of my impatience in this respect from the anxiety you yourself have felt to hear from me. There is little doubt now but that we are on the eve of very important changes in the administration, and as nothing essential has hitherto been done by the present Ministry in furtherance of Your Excellency's views, it is possible you may wish me to remain some time longer, for the purpose of trying what can be obtained from their successors: who they will be it is impossible at this moment to say, and I will not take up your time with idle conjectures. From the very decided part Lord S. has taken in support of the Prince's cause, every body is led to conclude that he will certainly be one of them, and I rely with confidence on obtaining a much greater degree of attention through him than I have hitherto met with; but I refrain, through motives of delicacy, from going near him just at present. As this letter will be forwarded by a private conveyance, I shall not write so fully as I otherwise would do. I must, however, observe that, in what I say concerning my further stay in England, I am influenced solely by a desire to assist

in the accomplishment of Your Excellency's views for the benefit of the Province over which you preside, as four months experience has already proved to me, in the most convincing manner, that my own circumstances must suffer very considerably by a longer stay here, unless I can obtain an indemnification from Government for the extraordinary expenses that have unavoidably attended my mission.

It is a great satisfaction to me to find that my ideas with respect to calling the Provincial Legislature together in time to prevent losing the Act for the better preservation of His Majesty's Government, perfectly accord with Your Excellency's. I only lament that the letters by the September mail will not reach you, (as I had flattered myself they would,) in all October, as I think it probable that a knowledge of what has passed here might have induced you to convene the two Houses, in November, by which means your intention with regard to that particular object would have been the better concealed.

I dined the other day at Mr. Atcheson's, in company with Messrs. Todd, McLeod, McGillivray, Henry and Uniacke. The latter evidently avoided speaking to me, and his whole conduct convinces me that communications have been made to him from the Secretary of State's office of all that has been said concerning him. Your health was drank after dinner, but I avoided as much as possible entering into Canadian politics, and came away early.

Friday, 29th December.

I shall write again by the mail. I am now going into the city with this, and will write to Thornton when I return, if the vessel is detained.

I have the honor to be,

Dear Sir,

Your Excellency's most faithful humble servant,

H. W. RYLAND.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, *Sunday, 13th January, 1811.*

DEAR SIR,—A few days after I last had the honor of writing to Your Excellency I called at the Secretary of State's Office, and saw for a moment both Lord Liverpool

and Mr. Peel, the former happening to come into the room whilst Mr. P. and I were conversing together. I took occasion to mention to His Lordship, that you intended convening the Legislature in time to prevent the American Intercourse Act, and the Act for the better preservation of His Majesty's Government, of which he appeared to approve, but said very little. His Majesty had had a relapse the day before, and I thought the office bore evident marks of preparation for a change. Mr. Peel had just before said he should be happy if I found him here three weeks hence. Since then, however, the King has been in a gradual state of improvement, and it was thought on Friday last that the Regency would yet fall through. Yesterday's bulletin, however, is not so favorable, and now (Sunday) the tide of opinion seems to be changed again. One week more will probably put the nation out of this cruel and most embarrassing state of suspense, which, for near three months, has kept all public business at a stand. I think you will greatly admire the Prince's answer to the address of the two Houses. All eyes seem to be fixed on His Royal Highness with sanguine expectation.

I beg leave now, Sir, to advert to a subject of more immediate interest to myself: I mean the desire which Mr. Peel informs me you expressed in a late despatch, to resign the command in Canada. He entered no further into the subject than to say they had lately received a letter from you to that purport. Surely your next letters will inform me what your intentions in this respect really are? The intelligence has filled me with the most gloomy apprehensions both on a personal and a public account. I shall lament such a determination as the greatest misfortune to the interests of the Crown in that quarter of the world; and the grounds of your resignation, as well as the event itself, will be to me a source of regret for the remainder of life.

I am led by this subject to say a few words more particularly relating to my own views, as both in Canada and England several persons who profess a friendship for me have expressed a very strong opinion that I should not return again to Quebec; that is to say, that a change would take place in this country, and that the nobleman who has

so long protected me would, on coming into power, be desirous of employing me immediately under himself, or willingly exert his influence to establish me advantageously at home. I do assure you, however, that I have not entertained the slightest expectation of the kind myself; and although, (after the event which Mr. Peel has led me to apprehend,) I shall regard Canada as the most gloomy and unenviable part of His Majesty's dominions, still thither I must return, as my appointments there, in a pecuniary point of view, (especially with the addition of what Your Excellency had in contemplation for me,) must, at my time of life, and with the family I have, preclude all idea of exchanging to advantage. I say this from a consciousness of my want of pretensions; and I am really concerned that so many of my friends should have expressed such different expectations for me from what I myself have ever entertained. If, on the appointment of a new Ministry, I see a chance of furthering any of the measures Your Excellency has recommended, I shall remove my lodgings to the neighbourhood of Downing Street, for the purpose of being constantly at hand whenever called upon; and in proportion as your enlightened views for the benefit of the Province are carried into effect, I shall feel the less regret at being doomed to pass the remainder of my days in it.

I have the honor to be,

&c., &c., &c.

H. W. RYLAND.

MR. RYLAND TO THE LORD BISHOP OF QUEBEC.

LONDON, *Monday*, 14th January, 1811.

MY DEAR LORD,—Your Lordship's letter of the 13th November reached me on the 8th of this month, and I must confess it filled me with shame and confusion, for although it has hitherto been out of my power to communicate to Your Lordship any intelligence of a satisfactory nature relative to the chief objects of my mission to this country, still I take blame to myself for having remained so long silent, knowing your anxiety to be made acquainted with the particulars of my proceedings. I have, however, written in the most circumstantial manner to Sir James,

and, as I flatter myself he will have communicated my letters to Your Lordship, I do not think it necessary to repeat the particulars which he is in possession of.

My first letters were sent by the *Argo*, which sailed for Quebec about the middle of August, and returned to this country early in November, without having accomplished the object of her voyage. I have since forwarded duplicates of my numbers 1 and 2 to Sir James. Nos. 3, 4, 5, 6 and 7 were sent under cover to Mr. Barclay by the September mail; they contained *very minute details* of all that had passed, and will, I should hope, enable the Governor to form a just idea of the strength, or rather of the weakness, of the present Ministry, and of all that was to be expected from them in support of his administration.

After I had completed all that could be done at the time, I went (about the 18th September) down to Hinckley to see my children. I there found Mr. Canning, and hoping in some degree to further your Lordship's views by a personal acquaintance, I begged Mr. Chepser to intimate that I wished to have the honor of paying my respects to him. A day was accordingly appointed for me to call; my visit was short, and our conversation general, Mrs. Canning being by. On my coming away he enquired particularly how long I should stay at Hinckley, &c., and from his manner I was persuaded I should see more of him, as I remained there near a fortnight afterwards. This not being the case, I confess to Your Lordship that I felt most exceedingly piqued, and on the morning of my coming away I sent him a letter, of which I shall enclose a copy. To my great surprise an answer was sent after me the next day, of the most polite and flattering nature, stating the reasons that had prevented his calling upon me, expressing a hope that he should see me again either at Hinckley or in London, and saying that he should derive great pleasure from my success in anything in which I might be employed on behalf either of Your Lordship or of the Colony, &c. These particulars I think it proper to communicate in confidence to Your Lordship, as it is my intention to avail myself of Mr. Canning's permission to wait upon him before I leave England, especially if he should come into office; and in the latter case I imagine Your Lordship will

have no objection to my delivering the letter you had intended for him under such circumstances.

In the last interview I had with Lord Liverpool before I left town in September, he told me he would take the Ecclesiastical affairs of Canada into consideration in the course of the winter, and I have been prepared accordingly; but for these three months past it has been impossible to enter on any business with His Majesty's ministers; and now we stand all *ébahi*, as the French would say, wondering who are to step into the shoes of the men at present in power!

I must not omit to inform Your Lordship, that shortly after my arrival I wrote to Mr. Peel, pointing out the mode in which the Governor thinks it most advisable the resumption of the patronage of the Romish Church should be carried into effect, and to this Lord Liverpool referred in part, when he told me he would take the Ecclesiastical affairs of Canada into consideration. I shall not fail to place in its true light the insolent and presumptuous document Your Lordship has sent me, and to obtain, if possible, the opinion of the Law officers of the Crown on the subject.

I have now only time to add my best wishes and regards to Your Lordship, and all your family.

I have the honor to be,

My dear Lord,

Your Lordship's

Most faithful humble servant,

H. W. RYLAND.

MR. RYLAND TO THE RIGHT HONORABLE GEORGE CANNING.

HINCKLEY, *Friday Evening, 28th September, 1810.*

SIR,—I think I owe it to myself, before I leave this place, to make some apology for having, rather in an unusual way, intruded on your retirement. The fact is, that having been honored by Sir James Craig with a confidential mission to His Majesty's Ministers, relative to the political state of Lower Canada, I was requested by the

Lord Bishop of Quebec to take charge, not only of the private letter which I sent to you immediately on my arrival in London, but also of one of a more public nature, which His Lordship begged me to return to him in case of your not being, as he hoped, in office when I reached this country. Being uncertain whether the Bishop in his private letter adverted or not to the matters which I knew were the subject of his public despatch, and finding myself accidentally thrown in your way, I was desirous, in paying my respects to you personally, to afford an opportunity for any enquiries which you might think proper to make respecting the Ecclesiastical affairs of Lower Canada. One other motive for my intrusion I will frankly avow. Although a long absence from my native country, (to say nothing of the smallness of my pretensions,) has allowed me to have access to very few only of the public men of the day, I have not been unobservant of those who have stood most prominent in those eventful times; and I flatter myself you will not deem it impertinent if I have been impelled to solicit a momentary interview with one whose talents and character have, above all others, excited my admiration and respect.

Sincerely wishing that your country may not long be deprived of the great advantages to be derived from your abilities as one of His Majesty's Ministers,

I have the honor to be,

Sir,

Your most humble servant,

H. W. RYLAND.

COPY OF MR. CANNING'S LETTER TO MR. RYLAND,
NOT SENT TO THE BISHOP.

HINCKLEY, 29th September, 1810.

SIR,—I have this instant received the letter which you did me the honour to address to me last night.

So far from deeming any apology necessary on your part, for the civility which you were so good as to show me by calling upon me here, I feel that I should owe many apologies to you for not having availed myself of the opportunity to cultivate your acquaintance, if I did not hope

that you are sufficiently aware of the nature of those difficulties which the accommodations of a lodging house in this place impose upon any social intercourse.

I hope, if you should not have left England, (as I collected you were not likely to do,) before the meeting of Parliament brings me up to town, that I shall have an opportunity of seeing you there before your departure.

Situated as I am, I should rather decline than solicit any communication on the subject of the commission with which you are charged to the King's Ministers.

The Bishop of Quebec will not think that I do so from any want of interest in what may concern him. Both he and you must know the political world well enough to know that objects of that sort are not best promoted by the interference of persons out of office.

That consideration will not prevent me from deriving great pleasure from your success in anything in which you may be employed on behalf either of the Bishop or of the Colony.

With best wishes for that success, and with very sincere personal esteem, I beg you to believe me,

Sir,

Your obliged and obedient servant,
(Signed,) _____

H. W. Ryland, Esq.

P. S.—If anything should bring you back to Hinckley in the course of a month or six weeks, I hope to have the pleasure of seeing you, as I shall be still here at that time.

ANSWER FROM H. W. RYLAND TO THE RIGHT HON.
GEORGE CANNING.

COCKGLADE, 2nd October, 1810.

SIR,—I had the honor to receive on my way here your letter of the 29th September, for which I beg leave to return you my sincere thanks.

I will at this time only take the liberty to say, that I intend going to town about the beginning of next month, where it is probable I shall be detained by public business during the remainder of my stay in England; and if any fair occasion should offer of profiting by the permission

you have so kindly given me, I shall avail myself of it with greater satisfaction than I can express.

I have the honor to be, with the highest respect,
Sir,

Your most humble servant,

H. W. RYLAND.

SIR JAMES H. CRAIG, K. B., TO H. W. RYLAND.

QUEBEC, 15th January, 1811.

MY DEAR RYLAND,—About a month ago I received from Mr. Barclay, at New York, the two packets addressed to him, from the Secretary of State's Office, so that I have your letters Nos. 3, 4, 5 and 6. Nos. 1 and 2, you will recollect, were on board the *Argo*, which has never made her appearance here. We understand that she bore up for Newfoundland, from whence your letters will probably have been forwarded by the way of Halifax, and I shall receive them by the post from that place, which we expect in a few days. Nothing, I assure you, can be more satisfactory than your letters have been to me. I wish I could say as much of the matter of them; but I will confess to you, that it is exactly such as, after giving the subject a more mature reflection, I expected. You may rest satisfied that your letters have not been seen by any person whatever.

I wrote to you by the ship in which the Jolliffes went home, with a duplicate which went by another vessel, the *Wilmot*. You will, therefore, know that I intended to call Parliament on the 12th December. I had taken this resolution in the expectation that I should have been able to prorogue them immediately, upon the grounds of not having received any instructions on the various points which I had thought it necessary to report to His Majesty. Unfortunately, as I then thought, though I am now well pleased at it, I received Lord Liverpool's despatches about a week before their meeting. I was therefore deprived of that pretence, and determined to adopt another plan.

My determination was to compel them to pass the Bill for the better preservation of His Majesty's Government, previous to the 1st of January, or to prorogue them before :

that day. Never having had in contemplation that they would be called together before that month, they had limited the duration of the Act to the 1st January, or to the end of the then next ensuing Session, so that it was evident that by proroguing them, if they neglected to pass the Bill, I complied with the Constitutional Act, which provides for their being called together once in every twelve months, at the same time that I insured the continuing the Act in force until I thought proper to call them together.

I inclose you my speech, by which you will see that I gave them pretty clearly to understand my expectations. They had met full charged with hostility, and among other resolutions were determined not to pass the Bill but under such modifications as would have rendered it completely useless. By their Address to me you will see that they told me as much. I, however, appointed them a pretty distant day for receiving their Address, which, upon the first reading, had appeared to me, as well as to others, to contain a disrespectful allusion which required some consideration. In the meantime, having become sensible of my firm determination to prorogue them, from which I was not to be diverted by any blustering or threatening on their part, and aware of the outcry that would be against them if the public business was any longer delayed, they felt the necessity of giving way, and the very day after they presented to me that Address in which they expressed their intentions of not doing it, they unanimously passed the Bill, without amendments, as it had been sent to them from the Legislative Council. They affected to take my answer in good part, but I know that the leaders of the party felt extremely sore on the occasion. The part of their Address, which I have observed to have contained a disrespectful allusion, is that in which they say: "they reflect with pain on the efforts which are made to represent in false colours, and in a manner wide of the truth, the opinions and sentiments of the different classes of His Majesty's subjects in this Province." This was viewed as an intended reflection upon those whose opinions I am supposed to take, as representing them in a false light, and by consequence an equal reflection upon me for acting

upon those false suggestions. This was certainly their original meaning, and the clause was warmly contested by the English party on those grounds. It was the cunning of the elder Papineau, who worded it in the manner in which it was presented, which is certainly ambiguous. As, however, I soon discovered that it might be taken in another light, I thought it better to do so, and thereby avoid the asperity with which it would perhaps have been necessary otherwise to have replied to it. Debartzch acted well in this business. He told them plainly that he and several other members were determined not to concur in any measure which could bring on a prorogation, and leave the business of the Province at a further stand. The unanimity with which the Bill passed was merely a trick to prevent the names being entered on the minutes.

The Alien Bill, and that for the regulation of the American Trade, passed, likewise, without any difficulty. If there could be any credit in a triumph over these people, the present one has been most complete. They seem broken to pieces, and certainly act without system. There is the appearance of three parties among them. The one, of the most violent of the whole *clique*, of which *Bourdages* is the head; another, with the same views, but with much more art, and a cunning that will frequently deceive themselves, is led by Papineau. The third party affect a sort of nationality; this is Debartzch's party, and is not numerous.

You may well suppose that the affair of Bedard's confinement has not remained so long unattended to. The obtaining his release was one of the points in which they were the most strongly bent, and it is understood that the whole Province, that is, such as thought upon the subject at all, considered that their interference was to procure his release, as a matter of course. They had themselves unanimously given it to be so understood, in so much that they felt themselves not a little hampered by the sort of engagement into which they had entered, when they found that they would meet with greater difficulties than they had been aware of. Their proceedings and their language grew gradually more moderate, and at length terminated in a set of Resolutions, which I enclose you; but

even these, moderate as they are, especially when compared with the language with which they first set out, they felt some hesitation in presenting.

Bourdages, Borgia, and that set, were as violent as ever, but Papineau had somehow contrived to get the direction of the business in his own hands. Viger joined Papineau. The latter, before he would venture to present the Resolutions, requested a conference with me, which I readily granted. It lasted an hour and a-half. Nothing could be more correct than every opinion that he uttered; but I soon saw that his whole aim was to get the release of Bedard, by any means by which it was possible to attain it, knowing full well what the impression upon the Province would always be, and that they would take care to represent, that it was an act to which they had compelled me. I gave him to understand that, if the Resolutions were presented to me, there was much of both sophistry and of ambiguity in them, upon which I should think myself obliged to animadvert. With respect to Bedard, I told him very plainly that no consideration should induce me, as far as I am concerned, to consent to his release during the sitting of Parliament; and I did not hesitate to tell him that the grounds of my resolution in this respect were, that I considered the state of the Province to be such that it was become indispensably necessary for the dignity, and even the security, of the King's Government, that it should be distinctly made manifest, it was not the House of Assembly that was to govern it. We parted very good friends, though I saw he was much struck with my observation upon the Resolutions, which, I believe, he had himself suggested, though I do not know whether it was him or Bourdages drew them up. However, the case is, that these Resolutions passed the House on the 24th December, and they have not been presented yet. Bourdages made a motion some nights ago, for the Committee being called on to give an account of what steps had been taken with regard to them. The debate ran very high, and very strong language passed between him and Papineau. It was adjourned, however, *sine die*, and though that conversation has been renewed since, nothing has been done in it. Papineau told the

House, that he had a conference with me, from which he had returned perfectly convinced that the interference of the House was improper ; indeed he had always said that the taking up of Bedard was perfectly right. I rather think I shall hear no more on this subject.

The House now is going on with the necessary business of the Province. They have, indeed, most unaccountably, and without the possibility of assigning a reason, rejected a Bill that had passed the Council, for the more easy discovery and punishment of persons buying stolen goods, in cases of petty larceny, where the thing stolen is under the value of 20s. This Act was extremely necessary, for at the last Criminal Term a man was tried, who, it was proved, had bought eleven bolts of canvass, stolen by sailors from their ships, at different times ; but as the canvass was damaged, the Jury would not take upon them to value any one separate piece at 20s. The consequence was, that he walked out of the Court laughing at the Judges, the Jury, and all of them put together. This business of their rejecting the Bill is a subject of much complaint ; and a wag has proposed to open a shop to deal in stolen goods, according to law.

The House is now employed in the consideration of the expediency of continuing the Act of the 45 Geo. III., for levying duties to raise a fund for building the Gaols of Quebec and Montreal. The further continuance of this Act seems to be universally wished for ; and, although opposition is to be expected on the part of the merchants, yet I am given to understand that it will not be strenuously resisted in ; on the contrary, I am taught to expect that they are disposed to behave handsomely on the occasion, although they must preserve the appearance of consistency. Admitting that they suffered on the first laying on of these duties, which, however, I do not think was the case, yet it is impossible they can suffer any inconvenience whatever from the continuance of them, as all their arrangements are made to meet the circumstance. The fact is, that they are felt by nobody, and there are a number of works and buildings of public utility, of the want of which every one is sensible. Houses of correction, in each district, are indispensably necessary ; and a principal object

is a building to contain proper conveniences for the sittings of the Parliament, and a complete set of public offices. You know how much this is wanted. I was obliged this time to secure the Council room by props under the floor, before the Chief Justice would consent to go into it. The truth is, the walls have given way a good deal. They have talked of appropriating £30,000 for this building; I have advised them to put it down at £50,000, at the least. After what I wrote to Lord Liverpool by you, I felt myself a little embarrassed on this subject; I, however, found it a measure so generally wished for, and likely to pass without that opposition which I expected from a certain quarter, that I have given my concurrence to the introduction of the business, and if there is no objectionable clause in the Bill I shall consent to it. There is no possibility of my referring it to the King's pleasure, because the act must take place before the signification of that pleasure could possibly be obtained, and there would be no means of accommodation either to the merchants or to the public, by which the duties could be conditionally collected in the interior, if it should be finally disapproved at home, the orders for that purpose will put every body upon an equal footing. I have thrown out a hint that if they would make a liberal provision for the permanent payment of the expenses of the administration of justice, and support of His Majesty's Government, I thought it not improbable that His Majesty would consent to these duties being made permanent also, the surplus remaining at their disposal for works of public utility. This is a delicate subject, and I was obliged to touch it tenderly; however, I have thrown it out, and we shall see if it produces any effect.

They have passed a Bill for rendering the Judges ineligible. This, I shall probably take care to tell them that I assent to with particular pleasure, as it implies a complete renunciation of the erroneous principle which obliged me to dissolve the last Parliament.

I think I have put you pretty much *au fait* of our proceedings in Parliament, and I have done so in order that you may be able to inform Mr. Peel how we are going on. Perhaps Lord Liverpool, himself, will not be disinclined to

know it. I hear nothing of resuming the idea of paying the expenses of the Civil List, or the appointment of an Agent. Indeed they seem to be in every respect much altered. A friend of ours, an English member, observed that even their language and manners were totally changed. That last year, when an English member was in the outer room, it was necessary for him to effect not to hear what was going on, for fear he should be under the necessity of knocking somebody down; whereas now they mix in general conversation without the least difficulty. They are, however, as slow in transacting their business as usual; and, at the rate at which they go on, have enough before them to employ them, I think, till the month of May.

I do not expect to see you till the navigation opens, when I hope you will come charged with decisions and intelligence upon every point. I am particularly anxious for more particular instructions as to the Jesuits' property. If you can get a fair opportunity I wish you would remind Lord Liverpool, that Mr. Percival gave me reason to hope that he would move Parliament for a sufficiency to complete the church at Montreal. The misfortune is, that for want of finishing it, what is done is going fast to ruin.

I dare say you will know that I have given a hint of a wish to be permitted to pass the remainder of my time in that retirement for which I am much more fit than I am for the business of this situation; and since I have received Lord Liverpool's last despatches, I am more anxious upon the subject than I was; at the same time that I see no probability of matters taking that course under which I thought my remaining here might be useful, and which I should, at any rate, have thought it my duty to acquiesce in, if it had been judged proper. Indeed, I have neglected to tell you, though you will have heard it from my brother, that I had a very severe attack in the fall. It brought me in from Powel Place, and I was for some time very ill. I am now better, and, strange to tell, am actually undergoing a course of Courvall's medicine, from which I think I derive benefit; I am sure I suffer no prejudice. This last attack has, however, shaken me a good deal, and among other consequences I have no doubt but you will perceive that my style is much altered. The truth is, that

writing hurts me so much that I have been obliged to have recourse to dictating, which I never have been accustomed to, and find very difficult. It is William who is writing to you, as you will see by the hand.

I had almost forgot to tell you that Grey, the Sheriff of Montreal, is dead. It was impossible to keep it vacant. You will know to what this observation alludes. The universal voice and application is so much in favor of Er-matinger, Grey's nephew, who has conducted the business these twenty-five years, that I shall give it to him. Young Ogden was a candidate.

Your friends here are all well.

Yours ever,

J. H. CRAIG.

P. S.—You observe that I have studiously avoided any observations on Lord Liverpool's answers. This goes by a private hand to New York. I shall not write till the river is open again, when I shall send a regular report of our proceedings.

17th.—We yesterday received a report of the melancholy event of the King's death. It is but a report, and that through an American channel. It is, however, so given that we are forced to attach some credit to it. If it should be so, Mr. Peel may, and probably will, be out of office. I, therefore, continue to direct this to Greenwood, notwithstanding your desire to the contrary, in your letter to Thornton.

Bourdages *flies the pit*; he says there is nothing to be done in the House, and has asked six weeks leave of absence.

HOUSE OF ASSEMBLY.

Monday, 24th December, 1810.

Resolved,—That Pierre Bedard, Esquire, was one of the Representatives for the Lower Town of Quebec, in the last Provincial Parliament, at the time of its Prorogation, on the 26th of February last.

Resolved,—That the same Pierre Bedard, Esquire, was one of the Members of the last Parliament, as Representative of the Lower Town of Quebec, at the time of its Dissolution, on the 1st of March last.

Resolved,—That by a Warrant, issued from the Executive Council of this Province, the 19th day of March last, by virtue of the temporary Act, intituled, "An Act for the better preservation of His Majesty's Government, as by Law happily established in this Province," the said Pierre Bedard, Esquire, was, on the said 19th day of March, apprehended and committed for treasonable practices, and has always been, and still continues to be, detained in the Common Gaol, of the District of Quebec, by virtue of the said Warrant.

Resolved,—That the same Pierre Bedard, Esquire, was elected on the 27th of March last, and returned as one of the Knights Representatives for the County of Surrey, to serve in the present Provincial Parliament.

Resolved,—That the same Pierre Bedard, Esquire, is now one of the Members of this House for the present Parliament.

Resolved,—That the simple arrest and detention of any one of His Majesty's subjects, under and by virtue of the authority of the temporary Act of the Provincial Parliament, intituled, "An Act for the better preservation of His Majesty's Government," does not bring him under the description of those who are declared incapable of being elected to serve in the House of Assembly, by the 23rd clause of the Act of the Parliament of Great Britain, of the 31st year of His present Majesty, cap. 31.

Resolved,—That the provisions of the 6th clause, of the temporary Act intituled, "An Act for the better preservation of His Majesty's Government as by Law happily established in this Province" guarantees to the said Pierre Bedard, Esq., the right of sitting in this House.

Resolved,—That an humble address be presented to His Excellency the Governor in Chief to acquaint His Excellency that this House have taken into serious consideration His Excellency's message of the 13th instant and have accordingly passed several Resolutions which they conceive to be their duty to submit to His Excellency, and that it is the wish of this House, should His Excellency not deem it proper to lay before them any further communication on this subject, that Pierre Bedard, Esquire, Knight Representative for the County of Surry may take his seat in this House.

Ordered,—That Mr. Bourdages, Mr. Papineau, sen., Mr. Bellet, Mr. Papineau, jun., Mr. DeBartzch, Mr. Viger, Mr. Lee and Mr. Bruneau do present the said address to His Excellency the Governor in Chief.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, 4th February, 1811.

DEAR SIR,—We are still in the most cruel state of suspense as to the public arrangements that are to take place. It is now, however, almost certain that the great seal will

be affixed to the Regency Bill to-morrow, and I have been employed this morning in drawing up a brief statement of the circumstances which induced Your Excellency to send me to England, with a view of submitting them to the consideration of whoever may be appointed to succeed Lord Liverpool as Secretary of State for the Colonial Department. Mr. King told me, two days ago, that it was thought the Marquis of Lansdown would succeed to that office; and I am informed that Lord S. will have his choice either of the Admiralty or of the place of Lord President of the Council. His health having been considerably injured by excessive application to business when he was in the Admiralty before, I am inclined to think he will give the preference to the office last mentioned.

However this may be, I shall hope to derive essential advantage from his coming again into power, and I shall earnestly request him to recommend me to the favorable attention of Lord Liverpool's successor. But I much fear that for the first five or six weeks there will be such an accumulation of business as to render it impossible for me to accomplish anything of consequence. I lament exceedingly that my letters by the September mail did not reach Your Excellency in time for me to be honored with your advice and directions in consequence of them, before these changes took place.

5th February.

Colonel Vesey has this moment called upon me, and informs me the King is so evidently approaching to a state of convalescence, that the Prince has come to a determination of not making any changes, and that he intends going on with the present Ministers till His Majesty shall be able to assume the reins of Government. In this case I shall hope immediately to renew an intercourse with Lord Liverpool, concerning those points in your despatches, which do not require Legislative interference.

I shall enclose a rough draft of the statement I had it in contemplation to lay before the new Secretary of State. You will observe that in it I have confined myself to three principal objects, thinking it best to be as concise as possible, and to reserve for verbal communications all matters of inferior importance. A more painful idea cannot enter

my mind than that of returning to Canada without having effected any one object of my mission; but I flatter myself Your Excellency will allow that this failure has not arisen from any want of zeal or attention on my part. I can truly say that my whole heart and soul have been in the business; but the circumstances of the Government during the last four months are not to be paralleled in the history of this nation.

I shall now conclude my letter abruptly, and take it to Downing Street, and will begin another to-morrow or next day, if I find the mail is detained.

I have the honor to be,

Dear Sir,

&c., &c.,

H. W. RYLAND.

MEM.—Inclosure not entered, the main points being the same as those contained in the inclosure to the subsequent letter.

R.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, 11th February, 1811.

DEAR SIR,—Since I closed my last letter to Your Excellency, on the 5th instant, the Executive Government of this country has settled down, I hope, on a firm basis. The King's Ministers remain in, and the Regent's conduct is the theme of universal praise! I have, therefore, regulated my plan according to actual circumstances, as you will see by the enclosed copy of a statement which I am about to deliver to Mr. Peel, for the purpose of its being submitted to the Earl of Liverpool.

You will observe a very considerable difference between this paper and that transmitted in my letter No. 13. If I find it impossible to gain attention, I shall immediately endeavour to secure a passage in the Ewerretta, or one of the spring convoy, unless, in the meanwhile, I should receive any instructions from Your Excellency, which may require me to pursue another course. I hope my statement will meet your approbation. I have made it as concise as I could, and confined myself to the principal objects

pointed out in your despatches, which do not require the sanction of Parliament.

I have the honor to be, &c.,

H. W. R.

P. S. to the duplicate of the above—14th *February*, I was so pressed for time when I last wrote, that I could not wait awhile to transcribe the letter to Mr. Peel, which accompanied my statement. I now, therefore, enclose a copy.

(*Enclosure.*)

MR. RYLAND TO MR. SECRETARY PEEL.

LONDON, *February 11th*, 1811.

SIR,—When the Earl of Liverpool, in the month of September last, honored me with the communication of a despatch to Sir James Craig, informing him that His Majesty's Ministers did not judge it expedient to bring the affairs of Lower Canada before Parliament, as the Governor had recommended, His Lordship condescended to express an intention of taking into consideration, in the course of the winter, those matters submitted in the letters I brought over with me, and particularly the ecclesiastical affairs of the Province, which did not require Legislative interference. At the same time His Lordship graciously permitted me to call either his or your attention to them on any suitable occasion. I need not state why I have hitherto delayed availing myself of this permission; but now that the Executive Government of this country is once more placed on a firm basis, I trust I may, with propriety, call to your recollection some points relative to the Colonial politics of Lower Canada, upon which a final decision would be of the highest importance to the interests of the Crown in that Province.

As it may perhaps be of use to introduce these particular points by recapitulating the Governor's motives for sending me home with his despatches, I have, in as concise a manner as I was able, stated them in the enclosed paper which I now respectfully beg leave through you to submit to His Lordship's consideration.

I have the honor to be, Sir,
your most obedient faithful
humble servant,

H. W. RYLAND.

STATEMENT.

The Assembly of Lower Canada, ever since the establishment of the present constitution, has been constantly endeavouring to acquire privileges beyond what was evidently intended by the Act of Parliament of the 31st of His Majesty, to be given to that body. But the disorganizing tendency of these attempts did not become apparent till towards the beginning of the year 1807, when a party was formed under the auspices of a few individuals of desperate fortunes, which soon obtained a preponderating influence in the House. Funds of a very suspicious origin were provided for the establishment of a press, and a paper intituled "Le Canadien" was published weekly in French, at a very low price, and circulated with uncommon industry throughout the Province. The chief object of this paper, though concealed under frequent professions of loyalty and devotion to His Majesty's person and Government, was to vilify and bring into contempt the King's Representative, to persuade the mass of the people that the House of Assembly was superior to, and independent of the other branches of the Legislature, and to excite in the breasts of the *French Canadians*, the bitterest enmity against the *English* part of the community.

With a view of trying how far the House would be permitted to go, motions were frequently made implying a *right* in the Assembly to superintend and control the Executive power, and more particularly to decide by their own resolves on the privileges to which that body might lay claim.

The right of prohibiting, not only individuals, but certain classes of His Majesty's subjects, from being elected Members of the Assembly, was attempted in the Session of 1809 to be carried by a simple resolve of the House, and such was the nature of the proceedings on the occasion, that the Governor, with the unanimous advice of the Executive Council, judged it expedient suddenly to prorogue the Provincial Legislature, and soon afterwards to dissolve the House of Assembly.

By the time of the general election, however, the influence obtained by the French party through the means of the paper above mentioned, became so powerful as to

secure even a more decided majority in the House than it had before, and in the subsequent Session of 1810, after two Bills only had been passed, the Governor found it expedient again to have recourse to a dissolution.

It is to be remarked that, in the same Session of 1810, a resolve was proposed and carried by the leading democratic members, "That the House of Assembly ought to vote, during that Session, the necessary sums for defraying the Civil expense of the Government of the Province." This was followed up by separate addresses to the King, to the Lord's spiritual and temporal, and to the Commons of Great Britain, in Parliament assembled, declaring the intention of the House of Assembly to take upon itself "to pay the Civil expenditure of the Provincial Government."

The real motive for this measure was too obvious to escape the attention of the most superficial observer; indeed the party did not hesitate to boast to their adherents out of doors, that after having once obtained the *right* of managing the Civil expenditure, their intention was, to reduce the salaries of the public officers to such a standard as the House should judge proper, and finally to exercise an unlimited control over the Executive power.

These extraordinary circumstances induced the Governor in Chief to make a special representation to the Earl of Liverpool of the state of the Province, and to send home his Secretary (Mr. Ryland) with his despatches, "in order that he might be at hand to afford every explanation and every information in his power, and that His Majesty's Ministers might require concerning the several objects on which he had written."

Mr. Ryland reached London the first week in August, between which time and the closing of the September mail he had the honor of repeated interviews with the Earl of Liverpool, who entered very minutely into the several matters submitted to him by Sir James Craig the Governor in Chief.

The Governor having recommended an interference on the part of the Imperial Parliament for the purpose of checking the efforts of a party whose proceedings had all

the appearance of being directed by *French influence*, this subject was taken into immediate consideration, and Mr. Ryland was desired to attend a meeting of the Cabinet Ministers for the purpose of answering inquiries concerning the political state of Lower Canada.

Previous to the closing of the September mail, the Earl of Liverpool did Mr. Ryland the honor of communicating to him a despatch to Sir James Craig, from which it appeared, that His Majesty's Ministers did not judge it expedient to make the affairs of Lower Canada a subject of Parliamentary discussion. At the same time His Lordship was pleased to intimate, that there were several objects of great importance proposed in the letters from the Governor in Chief, which did not require Legislative interference, although essentially connected with the power and influence of the Crown in Lower Canada, and these His Lordship expressed an intention of bringing under discussion in the course of the winter; but the distressing event of His Majesty's indisposition has hitherto prevented these matters from being taken into ultimate consideration.

The principal points here referred to are :

First.—The assumption, on the part of the Crown, of the patronage of the Romish Church, as directed by the Royal Instructions, but hitherto neglected to be carried into execution by the several Governors of the Province. Sir James Craig's opinion with respect to the most eligible means of carrying this measure into effect was stated in a letter to Mr. Secretary Peel, dated the 4th of August last.

Second.—A decision respecting the estates formerly possessed by the Jesuits in Lower Canada, and those which, at the time of the conquest of the Province, were held by the Society of St. Sulpicians at Paris, commonly called the Montreal Seminary Estates. This extensive and very valuable property, (the right to which is indisputably vested in the Crown,) would, under able management, not only afford ample means for the purposes of public education, but the surplus monies arising therefrom, if added to the casual and territorial revenue of the Crown, and to the permanent duties already established by Acts of the Legislature, would, there is reason to believe, soon render the Provincial funds, that are at the disposal of the Crown,

adequate to the payment of the ordinary expenses of the Civil Government, and preclude the necessity of having recourse either to the House of Assembly, or to the Military Chest (as hitherto has been customary,) to make good the yearly deficiencies.

Third.—The adoption of a system for the more speedy settlement of the waste lands of the Crown, by which means the English population, the agriculture, commerce, and revenues of the Province might be rapidly increased.

By the plan adopted in Upper Canada for the settlement of the waste lands, a population of upwards of eighty thousand inhabitants has, within the last sixteen years, been added to that Colony, whilst in the Lower Province the increase from this source, during the same period, has not amounted to twenty thousand.

Should the Earl of Liverpool deem these matters of sufficient importance to claim the immediate attention of Government, Mr. Ryland is led to hope (from his having held the situation of Governor's Secretary in Lower Canada ever since the return of Lord Dorchester to that Province in the year 1793, and the knowledge his official duties have given him of all which has passed concerning them) that he might be enabled to afford some assistance towards bringing them to a final conclusion; and he would be happy to be employed during the remainder of his stay here in any way in which His Lordship may think it possible for him to contribute to the accomplishment of the important objects which the Governor in Chief of His Majesty's North American Provinces had in view in sending him to England.

H. W. R.

London, 11th February, 1811.

MR. RYLAND TO MR. SECRETARY PEEL.

LONDON, 19th February, 1811.

SIR,—I have recently received from the Lord Bishop of Quebec both a printed and a written copy of a Papal Mandement of the Rev. J. O. Plessis, dated 25th October, 1810, which carries on the face of it so gross a violation of the rights

and prerogatives of the Crown, connected with the Province of Lower Canada, that I persuade myself I shall be justified in transmitting one of the copies to you for the purpose of its being laid before the Earl of Liverpool.

The Bishop in a private letter mentions that he has no doubt the paper will be submitted to His Majesty's Ministers by the Governor in Chief, but that he is apprehensive the ill state of Sir James Craig's health may induce him to delay writing upon the subject.

It is so immediately connected with the measure proposed by the Governor, relative to the assumption of the patronage of the Romish Church, that I have ventured, in a separate paper, to suggest the advantage which might arise from the Governor's being furnished with the opinion of the Law Officers of the Crown on the case. Not that I entertain the most distant idea of matters being carried to such lengths as to render it advisable that a suit should be instituted in the King's Courts in Lower Canada against Mr. Plessis for the illegal assumption of powers as Titular Bishop of Quebec, but I think it might be of the utmost consequence to be able, at any time, to prove to him the illegality of his conduct, and the power which the Crown has over him, if driven to the necessity of exercising it; and I am fully persuaded that an intimation of the kind would be the strongest possible motive with a man of his stamp and character to submit himself to His Majesty's pleasure.

I have the honor to be,

&c., &c.

H. W. RYLAND.

STATEMENT.

By the Act of Parliament of the 14 Geo. III. cap. 83, commonly called the Quebec Act, is enacted (Sec. 5,) "That His Majesty's subjects professing the religion of the Church of Rome in the Province of Quebec, may have, hold and enjoy the free exercise of the religion of the Church of Rome, subject to *the King's supremacy*, declared and established by an Act made in the first year of the reign of Queen Elizabeth."

By the Royal Instructions of the 16th September, 1791, to Lord Dorchester, and by the subsequent instructions to the several Governors in Chief of the Province of Lower Canada, His Majesty's pleasure respecting the Roman Catholic Clergy is expressed as follows, viz: To the end that our just supremacy in all matters ecclesiastical as well as civil may have its due scope and influence, it is our will and pleasure,

First.—That all appeals to or correspondence with any foreign ecclesiastical jurisdiction of what nature or kind soever be absolutely forbidden under very severe penalties.

Secondly.—That no Episcopal or Vicarial powers be exercised within our said Province, by any person professing the religion of the Church of Rome, but such only as are essentially and indispensably necessary to the free exercise of the Romish religion, and in those cases *not without a license and permission from you, under the seal of our said Province*, for and during our will and pleasure, and such other limitations and restrictions as may correspond with the spirit and provisions of the Act of Parliament of the 14th year of our reign, for making more effectual provision for the Government of the Province of Quebec, &c., &c., &c.

On the 28th day of June, 1793, His Majesty was pleased, by letters patent under the great seal of Great Britain, to erect the Provinces of Lower and Upper Canada into a Bishop's See, "to be called from thenceforth the Bishopric of Quebec," and by the same letters patent "to name and appoint the Reverend Jacob Mountain, Doctor in Divinity, to be Bishop of the said See; and shortly afterwards His Majesty was pleased, by a mandamus under the Royal sign manual, to direct that the said Bishop should be summoned to the Legislative and Executive Councils of Lower and Upper Canada, by the style and title of Lord Bishop of Quebec, and the said Bishop was so summoned, and hath ever since taken upon him and exercised his several functions accordingly.

CASE.

In the month of October, 1810, a mandament, (copy of which is hereunto annexed,) was printed, published and

circulated throughout the Province of Lower Canada, without the privity or consent of the Governor in Chief, by the Rev. Joseph Octave Plessis, styling himself therein, "par la grace du S. Siège Apostolique, Evêque de Québec," directing and ordaining public prayers for the Pope to be offered up in all the churches and chapels of the Diocese of Quebec, at fixed periods, and until such time as he, the said Joseph O. Plessis, should notify to the Clergy, by letters from himself or from his Vicars General, that such prayers were to be discontinued.

Considering of how much importance it is to support the prerogatives of the Crown in a Province so circumstanced as that of Lower Canada, and that the Prelate above mentioned is not only unprovided with any legal authority to take upon himself the exercise of the Episcopal functions, but has even manifested a disinclination to receive such authority in the way prescribed by the Royal Instructions, it might be of material advantage to the interests of the Crown if the Governor in Chief were furnished with the opinion of His Majesty's Law servants on the points following, viz:—

First.—Whether, under the circumstances of the case, the Rev. Mr. Plessis, by issuing and circulating the Mandement above mentioned, and publicly taking upon himself the style, title and authorities therein set forth, does render himself liable to a criminal prosecution for the same.

Secondly.—Under what statute or statutes an action in this case might be brought into the Provincial Court of King's Bench; and

Thirdly.—To what penalty or penalties the said Mr. Plessis might be subject, if prosecuted to conviction?

H. W. R.

19th February, 1811.

ANSWER.

DOWNING STREET 19th, *February*, 1811.

DEAR SIR,—I have received your letters, with their inclosures, on the subject of the internal state of Lower Canada. I will take an early opportunity of submitting

them to Lord Liverpool, and I will refer to Sir James Craig's despatches, with a view to the having some conversation with you on some points alluded to therein.

I am,

Dear Sir,

Yours very faithfully,

ROBERT PEEL.

H. W. Ryland, Esq.,
&c., &c., &c.



MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, *Tuesday, 5th March, 1811.*

DEAR SIR,—Having lately received from our worthy Bishop a copy of the Mandement issued by Mr. Plessis on the 25th of October last, I thought it afforded a fair occasion of pressing more earnestly for a division respecting the Ecclesiastical affairs of Lower Canada, I therefore wrote a letter to Mr. Peel on the subject, a copy of which and also of his answer I have now the honor to enclose for Your Excellency's information. You will observe that Mr. Peel refers to my letter of the 11th as well as of the 19th February. I called on him a day or two after I received his, when he told me he was desirous to read over the correspondence with me, and that he would fix a day for the purpose, but this he has not yet done. I went to the office again yesterday, when he sent me down word that he was very busy in preparing a paper for Lord Liverpool, and begged to see me another time. I will call again to-morrow, and will not rest till I get a reference both of the Seminary papers, and Plessis, to the Attorney General with whom I can do business; but I am sorry to observe that it appears as if everything relating to Canada had got out of Mr. P.'s head.

In five weeks' time, with a little diligence, a final decision might be made, both with respect to the patronage of the Romish Church, and the St. Sulpician Estates, and surely these are objects of sufficient importance to command immediate consideration.

I am most exceedingly anxious to hear from you after the reception of the letters by the September mail, and to

know how matters passed at the meeting of the Legislature. Mr. Barclay writes me word that he forwarded all the despatches by Mr. Clarke; of course you must have received them before the House met; but they informed me yesterday, at the Secretary of State's Office, and at Greenwood's, that they have had nothing from you later than the middle of November.

Mr. Henry called here last night to inform me that Mr. McGillivray is come to England, and that Sheriff Gray died some time in December last. He is not without hope that Your Excellency will bear him in mind on this occasion; and I am so persuaded he would make a most useful public servant, and be so firm a supporter of your administration, that I cannot but wish he may succeed to the vacancy. Should he find that you have this kind intention towards him, he will make his arrangements for returning by the first opportunity to Canada.

I am now going into the city to endeavour to find out Mr. McGillivray, who, I think, must surely have letters for me.

Wednesday.

An hour or two after I returned from the city yesterday, the second post brought me Your Excellency's letter of the 6th November, enclosing Plessis' Mandement, and with it, a letter from Duchesnay, and another from De Lanaudière, both dated the 12th December. I find from Duchesnay's that he had received his mandamus, and is very grateful for this distinguished mark of your favor. I think his appointment just at this time will have a good effect.

Mr. McGillivray I did not see, but I understand he has nothing for me. I am told you have got the better of the House of Assembly, and it will afford me infinite satisfaction to hear this from yourself.

I hope what I have done with respect to the Mandement will meet Your Excellency's approbation, for it appears to me highly desirable that you should be in possession of the opinion of the Law servants of the Crown on the subject, so as to be able to avail yourself of it if you should see occasion. It is very observable that Mr. Plessis omits no opportunity of arrogating power and consequence to himself, and I believe in my conscience that this was the

principal, if not the sole, motive for putting forth the present paper. I much question if *religion alone* would induce him to give a shilling to prevent the Pope from being hanged!

I shall bear in mind what you mention respecting the connection between the Canadian and Irish Catholics, though I shall hardly venture to repeat it here, lest it should alarm our timid Ministry, and make them think it necessary to give way in everything. I am going immediately to Mr. Peel, and if the mail is detained I will write again.

I have the honor to be,
&c., &c., &c.

H. W. RYLAND.

MR. RYLAND TO THE LORD BISHOP OF QUEBEC.

LONDON, 6th March, 1811.

MY DEAR LORD,—I had the honor, on the 14th January, to acknowledge the receipt of Your Lordship's letter of the 13th November last, enclosing to me a copy of Mr. Plessis' Mandement. As soon as I found that the present Ministry were to remain in office, I submitted this extraordinary paper to the Secretary of State, and I have just now closed a letter to Sir James Craig, acquainting him with what has passed on the subject, the particulars of which I have no doubt he will communicate to Your Lordship.

I am immediately going to Mr. Peel, and hope I shall succeed in getting this matter, as well as some others of great importance, referred to the Attorney General, who is an exceedingly intelligent man, and has shewn me particular attention.

I had a letter yesterday, of the 6th November, from Sir James, enclosing the Mandement, but I have not had a *line* from him since he heard from me, though I know that he received the greater part of my letters in the beginning of December.

I received the enclosed, with a few lines from your son George, this morning. He tells me he is going out in the first fleet, and I intend giving him a small parcel for Your Lordship, which Mr. J. Mountain sent here some time ago,

as the time of my own departure must depend on Sir James' commands, which I have not yet received.

Mrs. Ryland joins me in sincerest regard, to Your Lordship, Mrs. Mountain, and all your family.

I have the honor to be,

My dear Lord,

&c., &c.

H. W. RYLAND.

MR. RYLAND TO THE EARL OF LIVERPOOL.

LONDON, 13th March, 1811.

MY LORD,—As the time approaches when Sir James Craig will expect me to return to Canada, unless Your Lordship should be of opinion that my further stay in England can any way be rendered subservient to the public interest of that Province, I flatter myself I shall meet with Your Lordship's indulgence if I now lay before you a statement of the extraordinary expenses attending my mission to this country.

In addition to what I have stated in the accompanying memorial, I will only say, that I have charged considerably less than what I have actually and unavoidably expended in consequence of my being ordered to England; but I look only for an indemnification, without which my family must suffer serious injury; and provided my claim is admitted, it will be equally the same to me whether I receive an order to be re-imbursed here or in Canada.

Being very unwilling, (without sufficient reason,) to multiply opportunities of addressing Your Lordship, I shall avail myself of the present for the purpose of calling to your recollection the subjects concerning which I took the liberty of writing to Mr. Peel on the 11th and 19th of February, being deeply impressed with the idea that if the points brought forward in my letters of those dates were finally decided upon, the Colonial Department would in future be relieved from an infinite deal of trouble, and the administration of the Government of Lower Canada be rendered more easy than that of any other of His Majesty's foreign possessions. Whereas, if means be not speedily taken for strengthening the Executive power, and for

giving to the Crown its due influence over the Roman Catholic Clergy in that Province, I greatly apprehend that the tranquillity which the vigor of the present Governor in Chief has secured for the moment will soon be disturbed, and that the difficulty of combining the English and what may justly be denominated the French inhabitants of the Colony, against a common enemy, will continue to increase.

I make no doubt that Sir James Craig has written to me since Your Lordship's despatches, which went by the September mail, reached his hands; but I have not had the good fortune to receive any letter from him of a subsequent date. I am, of course, ignorant of the effect produced on his sentiments by those despatches. In taking upon myself to call Your Lordship's attention to any particular objects, I have only complied with the Governor in Chief's instructions to me previous to my leaving Canada; and in all I have ventured to do in this respect I can truly say that I have been influenced by no other motive than an earnest desire to promote the essential interests of the Crown, and the welfare of the Province, and this, I am persuaded, will be a sufficient apology to Your Lordship for my presumption.

I have the honor to be,

My Lord,

Your Lordship's most humble and
Most obedient servant,
H. W. RYLAND.

To the Earl of Liverpool, one of Her Majesty's Principal Secretaries of State, &c., &c., &c.

The Memorial of Herman W. Ryland,

MOST RESPECTFULLY SHEWETH :

That Your Lordship's Memorialist was, in the summer of last year, ordered from Quebec to England with despatches from Sir James Craig, the Governor in Chief of the Province of Lower Canada, for particular purposes arising out of the political state of that Province, with the

nature of which Your Lordship has been made acquainted. That in the execution of the duty thus enjoined upon him he will, (with what he has already disbursed,) unavoidably be put to an extraordinary expense of upwards of five hundred pounds before he can return again to Quebec, as will appear from the statement hereunto annexed ; and the salary which he receives as Governor's Secretary being only two hundred pounds per annum, with an allowance of thirty-two pounds per annum in lieu of fuel and candles for the Government House, in which he resides, (without any fees, perquisites or emoluments of office whatever,) your Memorialist is persuaded that Your Lordship will consider him as justly entitled to be re-imbursed the actual expenses which he has incurred in executing the orders he received from the Governor in Chief, and which he now submits, without soliciting any remuneration for what he has considered as a duty incidental to his official situation in the present exigency of the affairs of Lower Canada.

And Your Lordship's Memorialist, as in duty bound, &c., &c.

HERMAN W. RYLAND.

London, 13th March, 1811.

Account of extraordinary Expenses incurred by Mr. Ryland, in consequence of his being ordered from Quebec to England on the public service :

Sterling.

Paid for the Cabin of the armed ship Little Sally, as per receipt, ...	£90	0	0
Sundry expenses which would not have been incurred but for the voyage, ...	10	0	0
Travelling and other extraordinary expenses, transport of baggage, &c., from Plymouth Dock to London, ...	50	0	0
Furnished Lodgings in London, from 1st August, 1810, to 30th April, 1811, nine months, at fourteen guineas per month, ...	132	6	0
Passage from England to Quebec, including travelling expenses to the port of embarkation, estimated at, ...	130	0	0

Paid extra allowance for the execution of the duties of Clerk of the Executive Council, and Clerk of the Crown in Chancery, during twelve months' absence, ...	90	0	0
	£502	6	0

HERMAN W. RYLAND,
Secretary to Sir J. H. Craig, K. B.,
Governor in Chief of the Province
of Lower Canada, &c., &c., &c.

MR. RYLAND TO MR. SECRETARY PEEL.

Thursday, 21st March, 1811.

DEAR SIR,—As I understood you yesterday that some other business must be decided on before a reference is made to the Attorney General of any matters relative to Lower Canada, I purpose going out of town on Saturday next for eight or ten days, but should anything occur before the end of that time, I shall hold myself in constant readiness to return, and to attend you whenever you think it possible for me to be of the smallest service in forwarding any business respecting that Province.

It is probable you will very shortly receive despatches of considerable importance from Sir James Craig, and I think it best to make my last excursion into the country in the intermediate time. If you should have any commands for me during the ensuing week, or any letters for me from Canada, I would beg you to address to me at Northampton. Allow me to repeat my acknowledgments for the communication you had the goodness to make to me yesterday, concerning my memorial to the Earl of Liverpool, and to say that I am perfectly satisfied with His Lordship's determination to refer the subject of it to Sir James Craig.

I have the honor to be,

Dear Sir,

Your much obliged humble servant,

H. W. RYLAND.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, 3rd April, 1811.

DEAR SIR,—My last letter to Your Excellency was dated 6th March, on which day I had the honor to receive yours of the 6th November. Your letter of the 9th and 12th November reached me the 19th December, and this is the latest date I have from you, though several persons have letters from Quebec to the middle of January, at which time, I am happy to find, you had completely got the better of the faction in the House of Assembly; but my anxiety to hear this from yourself is greater than I can express.

With a view of bringing matters to an issue at the Secretary of State's Office, having called repeatedly without being able to get sight of Mr. Peel, I determined, (after advising with my friend, Mr. King, the former Under Secretary of State for the Colonial Department,) to deliver in a memorial relative to the expenses attending my mission to England, a copy of which, as well as of a letter which I wrote at the same time to Lord Liverpool, I have now the honor to enclose.

I have reason to hope that this step will have the desired effect, for when I called on Mr. Peel, a day or two afterwards, he received me with great cordiality, and informed me that they had been exceedingly occupied for some time past with West India business, particularly with the affairs of Trinidad, which were then under reference to the Attorney General; that they would require his attention for ten days or a fortnight to come, after which I might depend on the Canada business being taken up. He expressed a wish that I should remain here some time longer, and particularly until they received your answer to the despatches by the September mail. I find myself, therefore, under the necessity of giving up the idea of going out in the first fleet, as I fully intended; and I fear I may be detained till the middle of May or June, which, I assure you, gives me great uneasiness. Not that I am in the least dissatisfied with this country, which appears to me a perfect paradise, and the happiest spot on the globe, but the state of suspense in which I am kept, and the fear that at last

nothing of consequence will be accomplished, greatly depresses my spirits. Add to this the circumstance of my not having had a line from Your Excellency since you heard from me, and you will allow that I am in a most unpleasant situation.

Thursday, 5th April.

I passed some time with Mr. Peel this morning, and he agreed, in the first instance, to make a *private* reference to the Attorney General on the three following points, which I immediately noted down :

First.—Whether, from the documents transmitted in Lieut. Governor Milnes' despatch of the 4th July, 1805, to Lord Camden, it appears that His Majesty has a legal right to the estates commonly called the Seminary Estates of Montreal ?

Secondly.—Whether, under the Statute of the first of Elizabeth, and the Acts of the 14th and 31st Geo. III, commonly called the Quebec Acts, the King has a legal right to assume and exercise the patronage of the Roman Catholic Church in Lower Canada, in the manner prescribed by the Royal Instructions to the Governor in Chief of that Province ? and thirdly,

Idem.

With respect to the powers exercised by the Roman Catholic Bishop, as pointed out in Mr. Ryland's letter to Mr. Secretary Peel, of the 19th February last.

From the whole tenor of Mr. Peel's conversation, I am led to conclude, that this reference is the extent of all that will be done at present, for he appears quite adverse to the idea of enforcing anything, and evidently has not formed a correct conception of the subject.

What I had submitted to him on the 11th and 19th February, was confounded in his mind with a letter from the Lord Bishop of Quebec, which he produced this morning, and told me it had been submitted to Mr. Percival, and indeed there was on the back of it a memorandum in that gentleman's hand writing, purporting that a sum should be allowed to complete the repairs of the Metropolitan Church,

I shall make a point of seeing the Attorney General when the papers are put into his hands, and will use my best endeavours to obtain a full and decisive report on the several matters referred; but I feel persuaded that it is an object with Lord L. to avoid, as much as possible, bringing the affairs of Canada before the Prince Regent, and to this I am inclined principally to attribute the delays that have taken place.

I shall notice in a separate letter such particulars as relate more immediately to myself.

I have the honor to be,

Dear Sir,

Your Excellency's most faithful and
Most humble servant,

H. W. RYLAND.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, *Sunday, 7th April, 1811.*

DEAR SIR,—When I saw Mr. Peel a day or two after delivering in the memorial concerning my expenses, he informed me Lord Liverpool was in every respect favorably disposed with regard to the object of it, but that he thought it regular to refer the matter to you, with which determination I told him I should be perfectly satisfied. I believe there is but one item in my account that requires particular observation, which is, the charge of ninety pounds as an extraordinary allowance for the execution of the duties of Clerk of the Council, &c., during my absence. The fact is, that I cannot exactly say what sum I do allow on this account; but I agreed to give up to Montizambert, for this service, all the fees, (except those on patents,) that should become due to the Clerk of the Council between the time of my departure and my return; and I thought it best to make a specific charge, not considering it a material object, either to Government or myself, whether the actual amount be a little more or less.

It may be said that my expenses have been increased by bringing my family with me, and in one respect they certainly have; but I am inclined to think that by keeping up two establishments, one at Québec for them, and one

here for myself, the aggregate would have been considerably more. In short, Sir, I have had too many proofs of your friendly disposition towards me, not to feel perfectly satisfied in having the matter left to your decision. I will only add that the account and memorial were drawn up with the advice of Mr. King, who had been some time Under Secretary of State to Lord Liverpool, and who assured me the claim could not be objected to.

I cannot omit this opportunity of repeating how deeply I feel the disappointment of not hearing from Your Excellency, since my letters by the September mail reached your hands. It was but yesterday that Mrs. Ryland and I received letters from Quebec of as late a date as the 31st January, from Montizambert and his wife. I ran immediately to Greenwood's, and to the Secretary of State's Office, but there was not a line from you at either place; and when I looked over Montizambert's letter again, I found that it was sent by Boston, through your new road, I imagine, which is already more celebrated than any Roman highway. Sir Hew and Lady Dalrymple, (who have shewn me great civility,) are also very anxious to hear from you. I would fain hope, now you have got the better of the faction in the House of Assembly, that you may be induced to remain some time longer in a Province where your services have been of such essential advantage to the interests of the Crown, and gained you the applause and admiration of all persons, both in and out of power, who are competent to judge of the effects produced by your firmness and prudence. Much as I should have occasion to lament your return, on my own account I can truly say I should deprecate it still more on that of the public, as one of the most unfortunate events that could happen for the Province at large.

Mr. Peel told me that two or three copies of your speech, &c., were sent to the Foreign Office (I imagine by the Bishop under cover to Mr. Canning,) from whence he got one. I have informed him of the passing of the annual bills, &c., which I heard of from Sir A. McKenzie and Mr. Linthorne, some time ago.

You will by this opportunity have most glorious news both from Spain and Portugal, and we are looking for fur-

ther and still better accounts every hour. I trust it will not be long before Jonathan is called upon to account for his conduct towards Spanish America.

I will enclose my latest papers to Thornton.

I have the honor to be,

&c., &c., &c.

H. W. RYLAND.

Monday, 8th April.

P.S. I am going with this to the Secretary of State's Office, in the hope that Mr. Peel will be able to forward it by the frigate that conveys the first fleet. I have this moment received a letter from Foy, dated 20th January. I think it must have come under cover to green wood, and shall call there as I go by to enquire whether they have heard from you.

MR. RYLAND TO SIR JAMES CRAIG.

LONDON, 11th April, 1811.

DEAR SIR,—I have at length the satisfaction to inform Your Excellency, that the references are made to the Attorney General. I had an interview with him, on the subject, yesterday, when we looked over the correspondence together. He told me he had carefully perused the Reports made by the Provincial Law officers of the Crown, concerning His Majesty's rights to the Seminary Estates, in which he appeared fully to concur: he observed at the same time, that there could be no doubt of the King's having the right to present to the Roman Catholic Church livings. Mr. Peel told me the day before that Sir Vicary had desired the reference might be made both to him and to the Advocate General on the subject of the estates as they were rather to be considered as a prize acquired by conquest, so that I hope we shall at last get a very complete and important Report. I am sorry to find that he is going out of town for ten days or a fortnight, which will retard the business. In the mean while, however, I shall prepare copies of the Report made by Mr. Sewell to Sir Robert Milnes, respecting the cause of Bertrand and Lavergne, and the proceedings had thereon in the Court of Appeals,

which I took especial care to bring with me, hoping I might have some such occasion to make use of them here. I observe you refer to these documents in your letter of September last, in what you mention concerning the Curé Keller, and you suppose they were sent home by Sir Robert Milnes, which was not the case. I shall now bring them forward, as well as the particulars stated in your letter, for the purpose of enforcing the necessity for a final decision on the subject of the King's Supremacy, as a matter of favor even to the Romish Clergy who cannot enjoy any legal rights unless derived from the Crown. I thought it best to reserve these papers till the reference to the Law officers was actually made, lest by pressing so much on their attention at the Secretary of State's Office, in the first instance, I might alarm them, and prevent their entering on the business at all.

I shall, in my next, acquaint Your Excellency very particularly with my proceedings. I write now hastily, to be in time for Mr. McGillivray, just to inform you that matters are begun upon. I must not omit to tell you that Sir Vicary expressed great surprise and satisfaction when I acquainted him you had got completely the better of the French faction, and that all the annual Bills were passed.

I have the honor to be,
 &c., &c., &c.,

H. W. RYLAND.

MR. RYLAND TO LIEUT. COLONEL THORNTON.

LONDON, *Sunday, 14th April, 1811.*

MY DEAR THORNTON,—I yesterday evening had the satisfaction to receive Sir James' letter of the 15th January. My packet for him and you had previously been delivered to the care of a Mr. McPherson, I think, who is going out with Mr. McGillivray by the way of Liverpool and New York. I wish I could have come out, as Sir James seems to expect, in the first fleet; but I have but just begun to get matters of the greatest moment into a train of discussion, and when he receives my letters I am sure he will approve of my complying with the intimation

I received from Mr. Peel, that it was desirable I should stay till they could be brought nearer to a final settlement. I trust the question of *right* will be determined in the course of two or three weeks; and if I find that they will not afterwards come to a decision with respect to the *policy* of what is proposed, I shall immediately take steps to return as speedily as possible. What Sir James tells me about his health alarms me to the greatest degree, and nothing but what I consider as a paramount duty should induce me to prolong my stay here for a day. I do hope I shall soon have late letters from you, and that they will bring me the cheering intelligence of his being better. Great things will be done for the Colony if he should remain there for another year; and all men will unanimously agree that he has deserved well of his country.

Believe me, &c.

H. W. RYLAND.

Foy tells me Sir James has openly announced his intention with respect to the Treasurership, so that if by ill fortune I should be prevented from reaching Quebec before he leaves it, I flatter myself he will have the goodness to secure me the appointment by issuing the commission.

MR. RYLAND TO MR. SECRETARY PEEL.

LONDON, 22nd April, 1811.

SIR,—Since I last saw you I have laid my hands on some papers relating to the powers that are assumed by the Roman Catholic Bishop in Lower Canada, copies of which I take the liberty of enclosing to you, in the hope that they may facilitate the final determination of His Majesty's Government, with respect to this very important subject, or at least that they may serve to throw some light on the points which it is in contemplation to refer to the Law officers of the Crown.

The first paper (A) is a copy of a Report made to Lieut. Governor Milnes, in the year 1805, by Mr. Sewell, then Attorney General, but now Chief Justice of the Province, of a cause between Mr. Bertrand, a curate, and one of his parishioners named Lavergne.* The second (B) is a state-

* See page 86.

ment of the pleadings in the said cause before the Court of Appeals, in the month of January, 1805, previous to the Attorney General's being ordered to be a party to the suit. And the third (C) is a copy of the reasons of intervention on the part of the Crown, which that officer afterwards filed in the Court of Appeals.† To these documents I have added an extract of a letter‡ which I received from the Governor in Chief in the month of October last, containing one instance out of many of the difficulties that are continually arising from the illegal erection of parishes by the titular Roman Catholic Bishop of Quebec. But the paper to which I would beg leave in a particular manner to call your attention is the inclosure C, as containing the opinion of the person who now presides over His Majesty's Courts of Law in the Province of Lower Canada.

Through the intervention of Mr. President Dunn the suit in question was not brought to a final decision, but the document last mentioned still remains on record; and I may venture to say that the opinions therein stated are well known both to the Roman Catholic Bishop and to the inferior Clergy throughout the Province, the whole of whom must be aware that if these are well founded, both the Bishop and the Parochial Clergy, (under the present order of things,) are destitute of the legal authority necessary to enable them to be acknowledged as such in His Majesty's Courts; and hence I am led to conclude that the measure proposed by the Governor in Chief, and suggested in my letter to you, of the 4th August last, would eventually be considered as an essential favor conferred by His Majesty on the Clergy themselves, who, I am persuaded, after the point had once been determined, would be much better satisfied with holding their benefices from the Crown, than with the illegal and precarious possession which they have of them at present.

I will take the liberty of adding only one observation, which is, that the influence of the Provincial Government has hitherto been exerted to *prevent*, as much as possible, the discussion of these points in the Courts of Law. It

† See page 88.

‡ This relates to the Rev. Mr. Keller. See Sir J. H. Craig's letter to Mr. Ryland, of 10th September, 1810, page 153.

must, however, be expected that cases of this nature will frequently occur; and it is to be apprehended that very serious difficulties, with respect to suits *both civil and criminal*, may arise from the illegal subdivision and erection of parishes, which has been suffered to take place in Lower Canada, at the discretion of an unauthorised individual.

I have the honor to be, &c.,

H. W. RYLAND.

P. S.—Should the Attorney General wish to refer to any of the Provincial Statutes or Ordinances, or to the Edicts and Ordinances of the French Government, now in force in Lower Canada, I have a collection of the whole, as well as printed copies of the Capitulations of Quebec and Montreal, the Treaty of Peace of 1763, &c., &c. I may also mention one document of great importance and authority, which I have seen in print, but of which I have never been so fortunate as to procure a copy,—I mean Sir James Marriot's Report to the King, concerning the Province of Quebec, made, if I recollect right, previous to the passing of the Quebec Act in 1774, and printed (I believe) by order of the House of Commons.

MR. RYLAND TO SIR JAMES H. CRAIG, K. B.

LONDON, 7th May, 1811.

DEAR SIR,—Two or three days after I had closed and despatched my last letter to Your Excellency I had the honor to receive yours of the 15th and 17th of January. Since then I have had several interviews both with Mr. Peel and with the Attorney General, and am, I hope, advanced a little nearer to the close of my mission, for as such I shall consider the final settlement or abandonment of the points submitted with respect to the assumption of the patronage of the Romish Church, and the taking possession of the St. Sulpician Estates, there being nothing else of sufficient importance to detain me longer in this country.

I now transmit Your Excellency a copy of a letter which I wrote on the 22nd April to Mr. Peel, together with a copy of a paper marked C, enclosed therein. The other inclosures it is not necessary to send you. The whole have

been put by him into the hands of the Attorney General, and you will probably think it advisable to shew this correspondence to Mr. Chief Justice Sewell, whose opinions I have availed myself of, as far as possible, in pressing the subject on the attention of His Majesty's Ministers. After the Law officers of the Crown shall have made their Report, it will remain to be determined whether the matter shall be brought before a Cabinet Council. I have not of late had any immediate intercourse with Lord Liverpool, and therefore cannot say how far he is disposed to go, but I fear there is not much energy in him, and Mr. P. really does not seem to comprehend the business. I passed some time with Lord S.* yesterday, and he promised to mention me to Lord Camden, whom I will call upon in the course of a day or two, and endeavour to put him on Canada affairs.

I have repeatedly mentioned to Mr. Peel your wish to receive instructions with respect to the monies arising from the Jesuits' Estates. He expressed a wish one day that they could be appropriated to the building of the proposed Barracks at Quebec, and it is possible they may determine to dispose of them in this way, for he acknowledged they dare not venture on applying to Parliament for the monies.

I will talk to him again to-day about the Church at Montreal. I do not think application to Parliament will be necessary in this case, as none was made, if I recollect right, with respect to the Metropolitan Church at Quebec, but simply an authority from the Secretary of State to complete the building. Foy will turn to the correspondence.

I expect orders will be transmitted to Your Excellency by this opportunity, respecting the payment of the expenses attending my mission, and if you should issue a warrant in consequence of them, I beg it may be *on account*, as the prolongation of my stay here must unavoidably increase the expense; and they give me to understand that there will be no hesitation in allowing it. I shall be under the necessity of taking up more monies from Munro's correspondent than he gave me credit for, and when I know to what amount, I will inform you, and the warrant may be issued for so much on account of my expenses.

* Spenser, I believe.—R. C.

I will now only add my fervent wishes for the re-establishment of your health and strength, which, God knows, I daily pray for as earnestly as I would for my own.

I have the honor to be,

&c., &c.,

H. W. RYLAND.

P. S.—I saw Mrs. Harris a few days ago, who told me Miss C. was doing very well, and read me part of an exceedingly well written letter from her.

MR. RYLAND TO MR. PEEL.

LONDON, 9th May, 1811.

SIR,—I avail myself of the permission you gave me yesterday to state to you some particulars concerning the Jesuits' Estates in the Province of Lower Canada, which call for the attention of His Majesty's Government. This property consists chiefly of Seigniories situated in the several Districts of Quebec, Montreal and Three Rivers, estimated, in the whole, to comprise upwards of eight hundred and ninety thousand acres of land. They were taken possession of, on the part of the Crown, in the year 1800, and vested in Commissioners who are appointed by letters patent under the great seal of the Province, to superintend and manage them for His Majesty's use.

The present Commissioners are Mr. Dunn, Mr. Baby and Mr. Williams, who are also Members of the Executive and Legislative Councils, Mr. Berthelot, a Canadian Advocate, and myself. Under these Commissioners there are Agents for each district, a Clerk and a Treasurer. The aggregate amount of the revenues arising from the estates, which had been collected and paid into the Treasurer's hands at the time I left Quebec, was upwards of nine thousand pounds, after deducting the expenses of repairing mills, paying agents, &c., &c.; and there is no doubt that by the completion of a *papier terrier*, and the granting of further concessions, the value of these estates may be augmented to a very great amount.

As they were originally appropriated, under the French Government, to the advancement of learning and education in the Province, an idea has generally prevailed, (especially

since an allowance was granted by Act of Parliament to Lord Amherst, in lieu of them,) that His Majesty would be pleased to allow a part, at least, of the revenues arising from these estates to be applied to the same use; and before I left Quebec I was instructed by the Governor in Chief to press this matter upon the attention of His Majesty's Ministers, in connection with what I have already had the honor to state respecting the St. Sulpician Estates at Montreal. The idea of the Governor was, "that the nine or ten thousand pounds already collected should be placed in the stocks at home, so as to make a productive fund as an establishment for the education of the *English* part of the Colony," there being at present no public appropriation whatever for that purpose in the Province. Whereas the Corporation of the Seminary at Quebec, which is a legally acknowledged body, is in possession of estates comprising upwards of six hundred and ninety-three thousand acres of land, and the revenues arising therefrom are entirely under the direction of the Roman Catholic Clergy, and appropriated to the education of the youth of that persuasion.

With respect to the St. Sulpician Estates, I may here observe, that although their superficial contents are estimated at only two hundred and fifty thousand acres,* their value is considerably greater than either the Jesuits' or the Quebec Seminary Estates, owing to the populous Town and Island of Montreal being comprehended in one of their Seigniories; and although the persons now in possession of those estates state their revenue at less than four thousand pounds per annum, the best informed people are of opinion that in the hands of the Crown they might soon be made to produce from ten to fifteen or twenty thousand pounds a year, and if so, the aggregate revenues of these and the Jesuits' Estates, after allowing to the self-established Seminary at Montreal, if His Majesty should think proper, a net sum equal to what that body acknowledges to be now in the annual receipt of would be

* On re-considering this subject I must conclude, that the memorandum from which this estimate was taken did not include the Seignior of St. Sulpice, (in the District of Montreal,) which is of great extent and value.—H. W. R.

more than sufficient to make good the ordinary deficiencies of the Provincial revenues of the Crown, and might be applied either to this or to any other special purpose which His Majesty in his wisdom should see fit to direct.

I would enter more into detail, but I think it best in all representations to offices so overwhelmed with business as that of the Secretary of State for the Colonial Department is, to be as concise as the nature of the case will admit, and I flatter myself the little I have here said will tend to show the great magnitude and importance of the subject which I have the honor to submit to your consideration.

I have the honor to be,

Sir,

Your most obedient humble servant,

H. W. RYLAND.

MR. RYLAND TO MR. PEELE.

LONDON, 10th May, 1811.

SIR,—In a letter which I lately received from Sir James Craig, he desired me to take an opportunity of reminding Lord Liverpool that Mr. Percival had given him reason to hope that he would move Parliament for a sufficiency to complete the Church at Montreal, as, for want of finishing, what is done of it is now going to ruin.

Upon this subject I may observe, that I should not suppose an application to Parliament is absolutely necessary, for if I recollect right the Metropolitan Church at Quebec was wholly built without any legislative interference, and merely upon a letter from the Secretary of State for the time being, authorizing the completion of the building. The whole expense amounted to about £18,000, and was paid by the Governor's warrants on the Receiver General, but of course this expenditure was not laid before the House of Assembly, though included in the public accounts that are yearly transmitted to the Lords of His Majesty's Treasury. The Church at Montreal has been carried to its present height by voluntary contribu-

tions. What remains to be done will, I understand, require £4000 or £5000 more.

I have the honor to be,

&c., &c.,

H. W. RYLAND.

SIR J. H. CRAIG, K. B., TO H. W. RYLAND.

QUEBEC, 4th June, 1811.

MY DEAR RYLAND,—The last packet brought me your letter No. 14, and previously to its arrival I had received from Mr. McGillivray No. 15. By the latter opportunity Thornton had also a letter from you, in which you complain of not having heard from me. The following are the dates of the several letters that I have written: 6th August, 8th September, 26th October, 6th and 9th November, the latter in duplicate, and 17th January. The last went by the way of New York, and very probably was not arrived when your letter was written. For your not receiving the others I cannot account particularly. I am at a loss to form a conjecture as to that of the 9th November, because it went by the Clifford, in which Mr. Jolliffe went. The duplicate went also by a ship called the Wilmot, which arrived safely. All my letters have been sent under cover to Greenwood, as from the probable change of the Ministry I could not tell to whom to address a letter at the Secretary of State's Office. Latterly I have not written, partly because I expected you would have left England before what I should write could reach it, and still more because the very bad state of my health really incapacitated me for giving the necessary attention. As soon as I came to a resolution of going home, I desired Thornton, who was then writing to you, to inform you of it. From the month of September last till about a fortnight ago, that I underwent the operation of the puncture for the second time, I have been very ill—*very ill, indeed*. Since the last mentioned period, I am much better—indeed, wonderfully so; but by no means in a condition to authorize any change in my intention. It is with difficulty I go through my business, and writing is very unpleasant to me.

We are in hourly expectation of the arrival of the *Amelia*, and if Captain Irby returns to England, and will accommodate me, I shall certainly go with him. If I am disappointed in this, I have my opportunity to seek; but I shall be most anxious to take the advantage of my present ability to perform the voyage, for fear lest a relapse should render me incapable of it. I cannot go in any of the little sloops or brigs of war that sometimes come for convoy, and if none other appear soon I must hire the best part of a merchant vessel, and run my chance. I think it probable that a frigate will be sent out with whoever is to succeed me, with orders to carry me home; but I dare not wait for that chance, for my successor will be in no hurry to leave England, and my conveniency will be little thought of. I should probably not get away before November, and a passage at that season of the year would do my business.

By the tenor of your last, I think it not unlikely that I may be in time to see you in England. It will be very unfortunate if we should cross each other at sea. I regret that I shall not reap the benefit of your labours, or myself profit by the truly able and diligent manner in which you have executed your mission. I hope my successor will see matters in the same light that I have done, and if so he cannot but be as much obliged to you as I should have felt myself, had I remained here.

Nothing has occurred worthy of particular notice. We have released Bedard, who has been very quiet as yet. He was enlarged without condition, and the recognizances entered into by the others done away. B., with Borgia, and Lee as his Notary, went to Reid, and demanded a copy of his commitment, and I believe of the warrant for his release; but Reid refused to give them, upon which they delivered a regular protest; but they have not since taken any steps. They did the same to Allison, and demanded a copy of the warrant by which he seized the press, which he also refused, and they protested against him; but, though the Superior Court is now sitting, they have not taken any step to prosecute the business. No application has ever been made to me on the subject of the press.

I have lately had some conversation with Plessis, relative to his situation and that of his Clergy. I had once or twice loosely talked with him on the subject, but without entering very particularly into it, as I wished first to be more master of opinions at home upon it. I was, therefore, a little surprised when about a month ago he came to me, and renewing the subject, he expressed a wish that it was finished, and certainly at the moment implying upon the footing upon which it had stood with his predecessor, Denaud. I assured him that I thought there would be no difficulty. He then told me that he was to go to Three Rivers a day or two after, and requested to defer entering more particularly into it till his return. Whether he consulted Noiseux or Calonne, or both, I know not; but when he returned I found him entirely changed, for his conscience would by no means permit him even to consent to the Crown nominating to the livings. I immediately told him that it was unnecessary to continue any further conversation, as that was a matter which *did not rest upon his assent or denial. The right actually existed in the Crown, and would, most assuredly, sooner or later be resumed.* Our conversation did, however, continue two hours and a-half, but we parted without either inducing the other to change.

I cannot write or indeed command my attention long enough to give you particulars. I was very open, and did not hesitate to tell him that I should recommend the measure as indispensably necessary. One advantage he unguardedly gave me, which I took immediate hold of. By way of proving the reluctance that Denaud had to it, notwithstanding his having been at last induced to consent, he showed me a long letter from him to himself on the subject, in which he enters at large into that part of it which relates to the nomination to the livings. Every objection which he makes to the losing that power applies to the loss of influence and consequence, but there is not one word which carries with it the idea that he considers it as an essential requisite of their religious establishment, which he could not in conscience abandon. We have parted very good friends, though I told him that I regretted much that he would not authorise me to tell His

Majesty's Ministers, that the measure would be supported by his influence, as I could not be answerable for the light in which they might view a contrary conduct on his part. I have probably seen the last of him, for he sailed yesterday on a tour round the Gulf of St. Lawrence.

Thornton goes home with me, so will probably Somerville, for I cannot part with him till he lodges me in the hands of my old friend, Sir Walter Farquhar.

Adieu. I hope we shall somehow or other meet.

Yours ever,

J. H. CRAIG.

My letter of 6th November went with that of the 9th by the Clifford.

MR. RYLAND TO MR. PEEL.

LONDON, *7th June*, 1811.

SIR,—Since I last saw you I have looked over my papers in the hope of finding amongst them some documents that would enable me to state to you the annual expense of the Indian Department in Lower and Upper Canada, but I have only a copy of the proposed establishment in the Lower Province, for the year 1809, which was transmitted by the Governor in Chief, in his despatch No. 38, to Lord Castlereagh, and in No. 8 to Mr. Sargent of the Treasury, in the month of October, 1808, together with a requisition of Indian presents for the year 1810. I understand Lieutenant Governor Gore transmits the proposed establishment and requisition of presents for Upper Canada, in like manner, every year, both to your office and to that of the Secretary of the Treasury.

If it should be thought advisable, a correct account may easily be obtained of the whole annual expense of the Indian Department in both Provinces, for any number of years past; and I am humbly of opinion it would answer every purpose, if the Governor were directed to transmit a return for the last five years of the several officers in both Provinces, specifying the salary and annual value of the allowances of every kind to each; also the contingent expense of each Branch of the Indian Department, includ-

ing what is paid for store houses and transport of stores per annum, from one Province to the other ; also, the total amount of each year's bills for Indian goods shipped for Canada.

The charges for freight, &c., I imagine, can only be obtained from the merchants who supply the goods, or from the Secretary of the Treasury.

I venture to enclose a rough calculation of the saving which I think might be made to Government (amounting to upwards of £3500 per annum,) by substituting an allowance in *cash* to the Indians, instead of presents of goods, &c.

It is to be observed that I take it for granted the exchange would be perfectly acceptable to the Indians, *otherwise the whole system falls to the ground*, and before even the proposal were made to them I think it would be expedient to ascertain precisely what the present expense of the whole is, as upon this the annual allowance in specie to be offered to them must depend.

It may also be necessary to have an account from the Storekeeper General to the Indian Department, of the annual value of the presents given to each nation or tribe in the two Provinces, which, to my knowledge, that officer can furnish at any time with the greatest facility, as it is the established rule, when a requisition for presents is submitted for the Governor's approbation, to specify the value of each article, as well as the total amount on the paper itself ; and this document is afterwards lodged with the Storekeeper General as his authority for the issue.

I am inclined to think that the two-thirds of the actual value of the presents in cash would more than satisfy the Indians, and as they would then have to purchase the goods they were in want of from the traders settled in the two Provinces, (instead of bartering the goods that are given to them, as they now frequently do, for rum,) a general benefit, in a commercial point of view, would arise out of the new system.

I submit these ideas with great diffidence, not having the documents necessary to enable me to make correct estimates, but I think the advantage in one point of view will clearly appear, and it will afford me much satisfaction

should my suggestions be deemed worthy of consideration. In all events, as I have no other motive for calling your attention to this subject than a wish to promote the public service, I flatter myself that the liberty I have taken in so doing will be excused.

I have the honor to be,

Sir,

Your most obedient humble servant,

HERMAN W. RYLAND.

P. S.—Lord Castlereagh's despatch to Sir J. Craig, No. 21, of the 10th June, 1809, will show the great difficulty of obtaining a settlement of the Indian Storekeeper's accounts in Upper Canada.

**ROUGH CALCULATION OF THE SUMS THAT MIGHT ANNUALLY
BE SAVED TO GOVERNMENT BY SUBSTITUTING AN ALLOW-
ANCE IN CASH TO THE SEVERAL TRIBES OF INDIANS IN
LOWER AND UPPER CANADA, IN LIEU OF THE YEARLY
PRESENTS OF GOODS :**

Storekeeper General's salary per annum, ..	£300	0	0
Allowances to do., (say).....	40	0	0
Clerk to do., salary,.....	85	3	4
Allowances, (say).....	20	0	0
Conductor of Stores,.....	85	3	4
Allowances, (say).....	20	0	0
Storekeeper at Quebec, salary,.....	45	12	6

N. B.—The present Storekeeper receives allowances in another capacity.

Rent of Storehouse at Lachine, (say).....	60	0	0
Transport of Stores from Lower to Upper Canada, (say).....	300	0	0
Three Storekeepers in Upper Canada at (I believe) 10s. per diem each,.....	547	10	0
Allowances, (say) at £20 each,.....	60	0	0
Freight of goods from England per annum, (say).....	300	0	0
Profit on do. to the merchant, (say).....	700	0	0

Loss by damaged goods, &c., (say).....	300	0	0
Spoliations, &c., &c.,—more probably £1000, —(say).....	300	0	0
Total saving per annum,.....	£3,527	4	0

N. B.—The allowances consist of lodging money, fuel, candles and rations of provisions, including, in some instances, rum.

MR. RYLAND TO MR. PEEL.

LONDON, 27th June, 1811.

DEAR SIR,—I have at length had the good fortune to procure a copy of Sir James Marriot's Report "of a Code of Laws for the Province of Quebec," which I send you herewith, in the hope that you may find leisure to give it a serious perusal.

It is now upwards of seventeen years since my mind has had for its constant and principal object the politics of that Colony, and though my sentiments and opinions, during the first two or three years of my holding the situation of Governor's Secretary, differed essentially from those expressed in the above mentioned Report, yet, as I became more intimately acquainted with the people, and more capable of appreciating the true interests of the Crown in that part of His Majesty's dominions, my ideas gradually changed, and I cannot now sufficiently admire the great capacity, wisdom and penetration displayed by Sir James Marriot in all that he has said concerning the Province of Quebec.

The importance of the Canadas, in a political and commercial point of view, is every day increasing, and I feel persuaded that this will continue to be the use, in proportion as the British interests (opposed, in a certain degree, to Canadian or *French* prejudices,) shall be attended to in those Provinces. This sentiment must, I think, in a forcible manner, strike every one who has had an opportunity of observing the vast difference between the progress of agriculture and population in Upper and Lower Canada.

I am happy to find that the Advocate and Attorney General are already provided with a copy of Sir James Marriot's Report. You will observe in the book I send you, pages 210-11, that the St. Sulpician Estates at Montreal, so far back as the year 1773, were estimated to produce £8000 sterling a-year, whereas Mr. Roux, in a paper transmitted in Sir Robert Milnes' despatch to Lord Camden, of the 4th July, 1805, states the produce to be, "année commune," on an average of five years, only 90,000 livres, or £3750. If this be really the case, it shows that the revenues of those estates have diminished in proportion as the public have become informed of the absolute want of title in the persons who are in the actual possession of them; and under these circumstances, should His Majesty be graciously pleased to continue the allowance of that sum for the purposes to which it has hitherto been applied, there can, in my humble opinion, be no pretence for complaint at the Crown's exercising its just rights by taking upon itself the management of the property in question.

I have the honor to be,

Dear Sir,

&c., &c.,

H. W. RYLAND.

MR. PEEL TO MR. RYLAND.

DOWNING STREET, 8th July, 1811.

MY DEAR SIR,—I enclose to you the copy of the Report of the Law officers of the Crown, on the questions put to them relative to the Romish Church in Canada, and the St. Sulpician Estates.

Yours faithfully,

R. PEEL.

(Inclosure.)

MAY IT PLEASE YOUR LORDSHIP,

We are honored with Your Lordship's commands of the 16th May, 1811, transmitting the despatches received from Sir Robert Milnes, Lieutenant Governor, and Sir James Craig, Governor, of the Province of Lower Canada,

with their respective inclosures, together with several other documents in reference to the subjects of those despatches.

And Your Lordship is pleased to request that we would take the same into our immediate consideration, and report to your Lordship our opinion upon the points arising out of them.

First.—“Whether the right of presentation to vacant Roman Catholic livings in the Province of Lower Canada be in the Crown?”

And secondly.—“Whether the Crown has not the right of property in the estates of the St. Sulpicians, commonly called the Seminary Estates of Montreal?”

In obedience to Your Lordship's directions we have considered the several papers submitted to us, and cannot but observe with regret that questions of so much importance should have been left so long in a state of doubt and uncertainty, and that for so many years a sort of possessory title should seem to have been tolerated, which, if not consistant with the legal right, it may now be difficult, from long continuance, to disturb.

Confining ourselves, however, to the mere question of right, we are of opinion, on the first point, that so much of the patronage of Roman Catholic benefices as was exercised by the Bishop of Quebec, under the French Government, has of right devolved to His Majesty.

In forming this opinion we have endeavoured to trace the nature of that patronage, and its dependance on the Sovereign power, to which His Majesty has succeeded by right of conquest and by treaty.

It appears from the Acts and Edicts of the French Government, relative to Canada, that the patronage of cures in general was left to the Bishop.

But out of this general condition was excepted, by Royal Edict, *the patronage of founders of Churches,** and the right of nominating to particular benefices, which were vested in certain communities.

Such patronage may still belong to individuals who retain a capacity to exercise it under the capitulation and treaty.

* Edict of 1667 recited in the Edict of 1669.

We notice the condition of such benefices as a distinction arising out of the general question, and also as showing that the right of patronage, under the French Government, was dependent, in some measure, on the Sovereign, and cannot be considered to have been vested in the Bishop by virtue of rights or powers derived solely from the Pope. If, however, the right be supposed to have originated from the Pope, we think the same consequence would result from the extinction of the Papal authority in a British Province. For we are of opinion, that rights of this nature, from whichever source derived, must in law and of necessity be held to devolve on His Britannic Majesty as the legal successor to all rights of supremacy as well as of Sovereignty, when the Papal authority, together with the Episcopal office, become extinct at the conquest by the capitulation* and treaty,† and the statute, 1 Eliz. cap. 1, sec. 16, as specially recognized in the Act‡ for the Government of Canada.

We think, therefore, that so much of the patronage of Roman Catholic benefices as was exercised by the Bishop, under the French Government, is now vested in His Majesty.

On the second question proposed, relative to the lands held by the community of the St. Sulpicians, we have considered the reports communicated to us, together with the papers, and concur in the conclusion expressed in those reports, that the St. Sulpicians in Canada had not a valid title to the lands transferred to them by the community at Paris.

If the question depended only on the power of the Society at Paris to convey, as not being resident in Canada at the time of the conquest, and on that account not within the capitulation and treaty, we should have doubted whether the power reserved by the 48th article of the capitulation, "*to all persons though absent to sell by their Agents and Attornies their moveables and immoveables, if Canada should not return under the dominion of France,*"

* Art. 7.

† Art. 4.

‡ 14 Geo. III., cap. 83.

would not have comprehended communities as well as individuals, provided the laws applicable to such conveyances were duly observed.

But the party taking under such conveyance must have a legal capacity to hold lands, and we find no grounds for saying that the Members of the Society of the St. Sulpicians, remaining in Canada, had such a capacity, separate and detached from the general body at Paris (which has been since dissolved,) or that the necessary license from the Crown, which would have been required under the French law, and was after the conquest equally necessary from His Britannic Majesty, was granted to them.

This is not a defect of form merely, but of *substance*, since it could not but be an object of material importance to the new Sovereign to regulate in what manner and to what description of persons lands should be transferred in mortmain.

It does not appear that the necessary license was obtained, and on that account we are of opinion that the title was originally defective, and cannot now be considered in law to be valid.

In submitting to Your Lordship the result of our opinion on questions much embarrassed by their dependance on foreign law, and by a forbearance to assert rights belonging in strictness to His Majesty, we trust we shall not appear to exceed the limits of the reference made to us in humbly suggesting that, under the all the circumstances connected with these questions, it would be very desirable if, by any compromise or *amicable arrangement*, His Majesty could be restored to his rights, without the necessity of having recourse to the PROCESS OF LAW, which, after such forbearance, may carry with it some appearance of hardship to the persons against whom it is so enforced.

We have the honor to be,

My Lord,

Your Lordship's most obedient humble servants,

(Signed,)

CHARLES ROBINSON.

V. GIBBS.

THOMAS PLUMER.

Doctors Commons, 3rd July, 1811.

The Earl of Liverpool,
&c., &c., &c.

ATTORNEY GENERAL (SEWELL'S) REPORT, RELATIVE
TO THE ESTATES COMMONLY CALLED THE SEMI-
NARY ESTATES AT MONTREAL, AND THE CLAIMS
OF THE PERSONS CALLING THEMSELVES ST. SUL-
PICIANs.

PROVINCE OF LOWER CANADA.

*To His Excellency Sir Robert Shore Milnes, Baronet,
Lieutenant Governor of the Province of Lower Canada,
&c., &c., &c.*

I have been honored with Your Excellency's commands directing me to take into my consideration a paper which was prepared in the year 1789, intituled, "Observations and Remarks of the Attorney and Solicitor General, respecting the St. Sulpicians at Montreal," with another paper containing answers returned by the Rev. Mr. Roux, to some questions which Your Excellency was pleased to have put to him in the year 1800, relative to the Estates commonly called the Seminary Estates at Montreal, and to report any particulars concerning those Estates, which may have come to my knowledge accompanied by such observations and remarks upon the subject matter of the above mentioned papers, as I may think advisable for His Majesty's interest. In obedience to Your Excellency's commands, I have the honor to report, that I have perused and considered attentively the papers referred, upon which I now respectfully offer my sentiments to Your Excellency's consideration.

The Estates of the St. Sulpicians in this Province consist of four Fiefs or Seigniories, viz :

The Island of Montreal, containing	acres,
Saint Sulpice, containing	acres,
The Lake of the Two Mountains, containing	acres,
and Bourchemin, containing	acres,
amounting in the whole to	acres.

These Estates are of the yearly value of 90,000 livres, or £3750, and highly improvable, are now in the possession of twenty-two Ecclesiastics of the Church of Rome, who call themselves Saint Sulpicians, and claim to be in law a body politic and corporate, of which number fifteen are emigrant priests,

Natives of France, who have come to this Province since the year 1793, and the remaining seven natives of Canada.

These facts appear to me, in the scope of Your Excellency's reference, to call more particularly for the following enquiries:

1st. What is the situation of the persons claiming title to the Estates in question, and are their pretensions founded in law?

2nd. If not, is the title to the Estates vested in the Crown; and if it is, then what are the means by which His Majesty, if he should see fit, can enter into possession of them?

Upon these several points I propose to lay before Your Excellency, as concisely as I can, all that I conceive to be essentially necessary for Your Excellency's information, and the support of my own opinion upon those heads of enquiry.

The first enquiry is, what is the situation of the persons claiming title to the Estates in question? and are their pretensions founded in law?

It was stated in the Report of Sir James Marriot, Advocate General to His Majesty, respecting a Code of Laws for the Province of Quebec, in the year 1778, and cannot, I think, be doubted, that religious communities, who being principals at the time of the conquest were not inhabitants resident in person in Canada, do not fall under the privilege of the capitulation, nor come within what is termed by the civilians the *casus fæderis*; because they were not then the local objects to whom, as a personal consideration for ceasing their resistance, and on account of their particular courage or distresses, the conquerors granted terms of especial favor. That communities so situated could not retire according to treaty; and if they could not retire they could not take away their persons and Estates. If therefore it be true in fact that the Estates in question were, at the conquest, held by the individuals by whom they were then occupied, in right of the foreign Community of the Ecclesiastics of the Church of Saint Sulpice of Paris, either in the under tenancy or in trust for them, or by deputation, they then necessarily fell to His Majesty, of whom the present possessors must in law be

intended to hold them as trustees for such uses as His Majesty may be pleased to declare.

Communities (or congregations as they are called in the Canon Law) were in France composed of different Houses of secular or regular Priests, each of which had their particular Superior, but were all under the government of one head. Every Congregation or Community of secular Ecclesiastics in particular (of which description was the Congregation or Community of the St. Sulpicians) had their Superior General. I beg leave also to premise that, by the Law of France, no congregation could, without the authority of the Crown, alienate or transfer their estates or effects, nor could such societies, from the nature of them, be devisable, and therefore one part of the same congregation could not transfer to another part. These principles, which are stated as well in the Report of Sir James Marriot as in the Observations and Remarks of His Majesty's Attorney and Solicitor General of this Province, referred to me by Your Excellency's order, I conceive to be unquestionable.

The Society or Community of "the Ecclesiastics of the Church of Saint Sulpice of Paris," usually called the Seminary of St. Sulpice, was established at Paris about the middle of the seventeenth century. There existed also at that time in France another society of Priests and Laymen associated for the purpose of converting the natives of New France, or Canada, to the Christian faith, to whom the company of New France, who then held the whole of Canada of the Crown, had, in the year 1640, made a grant of the Island of Montreal to be held of them *en Fief*. This society for the conversion of the Indians had made some improvements upon the Island of Montreal, but in the year 1663, conceiving that the great object of their association would be better effected by the Ecclesiastics of the Community or Seminary of Saint Sulpice, who had before sent zealous missionaries to the Colony, they executed to them, that is to the Seminary of Saint Sulpice of Paris, a donation or deed of gift of the whole Island of Montreal, subject to one condition, among others, which is expressed in these remarkable words, "que le domaine et propriété de la dite isle

“ sera inséparablement uni au dit Séminaire sans en pouvoir
 “ être séparé pour quelque cause et occasion que ce soit.”

It must be noticed that at this time there was not any section or division of Saint Sulpicians established in Canada, those who were in the Colony being missionaries only from the Society at Paris, who upon acquiring the Island of Montreal, and not before, formed the resolution of establishing a branch of their house or community at Montreal, under the title of the Seminary of Montreal, and for this purpose in the year 1667, by memorial to His most Christian Majesty, they stated the abovementioned donation, the success which had hitherto attended the priests who had been sent to Canada by them as missionaries, and their further intention of encreasing the number of priests in the Colony to fourteen, praying that His Majesty would be pleased to grant to them letters patent to enable them to hold the Island of Montreal in mortmain, and give them an authority to create a seminary at Montreal, and to constitute the priests whom they should send over, and their successors, a community, which His Majesty was pleased to do by letters patent of the month of May, 1667, in the following words: “ Les Ecclesiastiques du Séminaire
 “ de St. Sulpice des Fauxbourgs St. Germain de Paris
 “ nous ont remontré que, etc., nous leurs avons permis,
 “ et parmettons par ces présentes, signées de notre main,
 “ d’ériger une Communauté et Séminaire d’Ecclesiastiques
 “ dans la dite Isle de Montréal, etc. Et pour d’autant
 “ plus faciliter la dite établissement, nous avons loué,
 “ agréé et approuvé, louons, agréons et approuvons *la dite*
 “ *donation* portée par le contrat du dit jour neuvième
 “ mars, mil sept cent soixante-trois ci-attaché sous le
 “ contre scel de notre Chancellerie, et de notre plus ample
 “ grâce nous avons amorti, amortissons à perpétuité, la
 “ dite terre et Seigneurie de Montréal comme à Dieu
 “ dédié et consacrée, voulons qu’elle soit unie à perpétuité
 “ à leur société; sans pouvoir être obligée, ni hypo-
 “ théquée, ni aliénée par aucun d’entr’eux en particulier
 “ pour quelque cause et raison que ce soit, pour en jouir
 “ *par eux et leurs successeurs* au dit Séminaire et Com-
 “ munauté.”

I cannot say whether the Seminary of St. Sulpice, under the authority given by these Letters Patent did by any

Act erect the Seminary of Montreal, and declare its members a community or not. If they did not, there is no such Seminary, for the power to erect is given to the Society at Paris, and if never exercised was in abeyance at the conquest; and if they did they would not exceed the authority given. The Royal Letters Patent abovementioned were certainly enregistered in the Superior Council of Quebec on the 27th September, 1677, and the preamble to the Act of Enregistration is in these words: "Vû que la
 "requête présentée par Messire François Lefevre, l'un des
 "Prêtres du Séminaire de St. Sulpice de Paris, Seigneur
 "de l'Isle de Montréal, et Supérieur du Séminaire du dit
 "Montréal, tendantes à ce qu'il plaise au conseil entériner
 "les lettres d'établissement d'un Séminaire d'Ecclésiastiques
 "dans l'Isle de Montréal, dépendante de celui de St.
 "Sulpice, etc."

From what has been cited it appears certain that the Seminary of Montreal was no more than a subordinate branch, a dependent section of the Society of St. Sulpice of Paris, and that the priests of the Seminary of Montreal being in fact members of the Society of Paris, as such, and as such only, possessed the Estates in question, not in their own right as distinct from that of the Seminary of St. Sulpice of Paris, but in right of the entire Society, as deputed agents for the whole, which is confirmed by the deeds of concession, leases, &c., made by the Seminary of Montreal prior to the conquest, in which the authority under which they convey is generally set forth, and they are stated to be, "fondés de la procuration et procureurs
 "de Messieurs les Ecclésiastiques du Séminaire de St.
 "Sulpice à Paris." Very many instances of this might be cited, but I shall produce but two. The first is of the 3rd of November, 1693, in these words: "Nous, François
 "Dollier de Capon, un des Prêtres du Séminaire de St.
 "Sulpice de Paris, Supérieur de Messieurs les Ecclésiastiques
 "du Séminaire de cette ville de Ville Marie en l'Isle de
 "Montréal, et Procureur de Messire Louis Tronçon,
 "Prêtre et Supérieur de Messieurs les Ecclésiastiques du
 "dit Séminaire de St. Sulpice de Paris, Seigneurs et
 "propriétaires de la dite Isle de Montréal, et lieux en
 "dépendants, assisté de Messire Maurice Queré, aussi un

“ des Prêtres du dit Séminaire de St. Sulpice, Econome et
 “ Secrétaire de mesdits Sieurs les Seigneurs, etc., etc.”
 The second is of the 19th of October, 1740, as follows:
 “ Par devant les Notaires Royaux de la Jurisdiction
 “ Royale de Montréal, y résidants, soussignés, fut présent
 “ Messire Louis Normand, l'un des Prêtres du Séminaire
 “ de Saint Sulpice de Paris, Supérieur des Messieurs les
 “ Ecclésiastiques du dit Séminaire établi en cette ville,
 “ *Procureur de Messire Jean Baptiste le Couturier, Prêtre*
 “ *Docteur de Sorbonne, Supérieur de Messieurs les Ecclé-*
 “ *siastiques du dit Séminaire de St. Sulpice de Paris,*
 “ *Seigneurs de l'Isle de Montréal, etc., etc.*” If there can
 be any ambiguity in any of the above extracts, it is
 elucidated by the general principles before laid down and
 put beyond dispute by the expressions used in many Royal
 Acts of Legislation, concerning the Seminary of Montreal,
 in which that Seminary is in no instance named as a
 distinct establishment, on the contrary the Edict of March,
 1663, for erecting a Court of Royal Jurisdiction at Montreal,
 considers the members of the Seminary of St. Sulpice at
 Paris and those of Montreal as forming one society, and
 speaks of the latter in clear terms as a dependent creation
 belonging to the former. “ *Les dits Ecclésiastiques du*
 “ *Séminaire de St. Sulpice de notre bonne ville de Paris,*”
 says His Majesty, “ s'étant réunis entièrement à nous, et
 “ nous ayant fait supplier de vouloir les indemniser des
 “ émoluments *qu'ils* retirent de l'exercice de la justice qui
 “ font une partie considérable de *leur* Séminaire en la dite
 “ Isle de Montréal, etc;” and afterwards in the same Edict:
 “ Et afin que les Ecclésiastiques du *Séminaire de Saint*
 “ *Sulpice* établis dans la dite isle ne reçoivent aucun
 “ préjudice, etc.” So (also) in the Edict of July, 1714,
 respecting the right of holding certain Courts of Justice in
 the Island of Montreal, &c., which the Crown had resumed,
 no mention whatever is made of the Seminary of Montreal,
 and the Ecclesiastics of the Society of St. Sulpice are
 considered as solely interested as appears from the following
 expressions: “ Les Ecclésiastiques du Séminaire de Saint
 “ Sulpice nous ont représenté que, etc., et pour indemniser
 “ *les dits Ecclésiastiques, et leur* procurer des avantages
 “ qui puissent contribuer à *leur* établissement, etc., à ces

“ causes et autres à ce nous mouvant nous avons par ces
 “ présentes signés, de notre main, dit et déclaré, disons et
 “ déclarons n'avoir entendu comprendre dans notre Edit du
 “ mois de Mars, 1693, la basse justice de l'Isle de Montréal,
 “ que nous voulons demeurer, réserver, dans toute l'étendue
 “ de la dite isle *aux dits Ecclésiastiques du dit Séminaire*
 “ *de St. Sulpice*, qui pourront la faire exercer par tels
 “ officiers que bon leur semblera, etc. Nous avons aussi
 “ accordé et accordons *aux dits Ecclésiastiques du Sémi-*
 “ *naire de St. Sulpice* les Droits Seigneuriaux dûs par
 “ tous les habitans pour les échanges des terres et héritages,
 “ de leur dite Seigneurie de la dite *Isle de Montréal, et Côte*
 “ *de St. Sulpice,, etc.*” And in the last Act of the French
 Government, extant upon this subject, being an Arret of the
 Conseil d'Etat du Roi, of the 5th May, 1716, the property
 of the Island of Montreal is still more explicitly declared
 to be vested in the Seminary of Saint Sulpice of Paris.
 “ Vû par le Roi ” (says this Arret,) “ étant en son conseil
 “ la requête présentée par les *Ecclésiastiques du Séminaire*
 “ *de St. Sulpice de Paris, Seigneurs de l'Isle de Montréal,*
 “ *terre ou Côte St. Sulpice* en Canada, leur appartenances
 “ et dépendances, etc., Sa Majesté a ordonné et ordonne
 “ que sur les demandes *des Ecclésiastiques du Séminaire*
 “ *de St. Sulpice* afin de réunion à leur Seigneurie, etc.”

To the extracts from the public Legislative Acts of the
 Crown of France, two of which, viz: the Letters Patent
 of July, 1714, and the Arret du Conseil d'Etat of March,
 1693, constitute the only existing title for the Côte de St.
 Sulpice, as appears from the fealty and homage rendered by
 the Seminary of Montreal to His Excellency Sir Frederick
 Haldimand, in the year 1781, which I shall have occasion
 to notice more particularly, and to what I have cited from
 the deed of gift of the 9th of March, 1663, by which the
 Seminary of St. Sulpice acquired the Island of Montreal,
 I will add in further proof of the fact which I am now
 endeavoring to establish (namely,—That the Seminary of
 Montreal was no more than an integral part of the House
 of St. Sulpice of Paris,) some extracts from the deeds and
 conveyances under which the remaining Estates of the
 Lake of the Two Mountains and Bourchemin are now
 claimed.

The original grant of the Seigniorship of the Lake of the Two Mountains by the Marquis de Vaudreuil, Governor, and the Chevalier de Begon, Intendant of New France, of the 17th October, 1717, grants the Fief, "aux Ecclésiastiques établis à Montréal," and by the Royal ratification of this grant, by Letters Patent of the 27th April, 1718, this is declared to be a grant to the House or Seminary of Saint Sulpice at Paris. The words of these Letters Patent are as follows: "Le Roi étant à Paris, et désirant traiter favorablement les *Ecclésiastiques du Séminaire de St. Sulpice établis à Paris, desquels dépendent ceux du Séminaire de St. Sulpice établis à Montréal*, à qui les Sieurs de Vaudreuil et Begon, Gouverneur et Lieutenant Général, et Intendant en la Nouvelle France, ont accordé par concession du 17 Octobre, 1717, un terrain de trois lieues et demi, etc., a donné et concédé par le présent brevet aux *Ecclésiastiques du Séminaire de St. Sulpice établis à Paris, le dit terrain, etc.*"

In September, 1733, a second grant of a tract of land adjoining to the Fief of the Lake of the Two Mountains was made by the Marquis de Beauharnois, Governor, and Hocquart, Intendant of Canada, *aux Ecclésiastiques du Séminaire de St. Sulpice de Paris*, as an augmentation to that Fief, and in the Royal letters of ratification of March, 1735, His Most Christian Majesty, after confirming this grant, generally takes occasion again to declare that the first grant of the Seigniorship of the Lake of the Two Mountains, as well as the last augmentation, belonged to the Seminary of St. Sulpice of Paris, to whom he thereby grants a further augmentation of three leagues in depth, and confirms and limits the whole to *them* by these words: "Sa Majesté ajoute trois lieues d'étendue sur la profondeur, si la dite étendue se trouve libre, dont il fait pareillement don et concession aux *dits Ecclésiastiques de St. Sulpice de Paris, qui les posséderont en toute propriété et Seigneurie, ainsi que l'ancien terrain, et la dite première concession.*"

As to the Seigniorship of Bourchemin it was expressly given and conveyed by Pierre Normand Dosquet, Bishop of Samos, and Coadjutor to the Bishop of Quebec, "à *Messieurs les Ecclésiastiques agrégés au corps du Sémi-*

" *minaire de St. Sulpice à Paris, ce acceptant pour eux*
 " Mr. Louis Normand, *Supérieur du Séminaire en la Ville*
 " *de Montréal.*" This extract is made from the Act of donation passed before Barbel, Notary, at Quebec, the 19th of October, 1735, by which it was conveyed to them.

The next extract which I shall offer is from a deed of cession executed by and between the Seminary of Saint Sulpice of Paris, and the Seminary of Montreal, on the 29th of April, 1764, John Consturier, with others, being parties for the former, and Stephen Montgolfier alone for the latter.

This deed recites the several titles of the Ecclésiastiques of St. Sulpice of Paris to the several estates in Canada, now in question, of which it states that *they* were the undoubted proprietors. It then proceeds to declare the embarrassment which the conquest of Canada had occasioned, that it was impossible for them to keep the property, because His Britannic Majesty had been pleased to declare that all foreigners and colonists, proprietors of estates lying in Canada, who would not remain in the Colony as his subjects, should alienate what they possessed under the pain of confiscation; that to sell them to individuals was to defeat the purposes of their institution, and if sold they would fetch but a very small price; that, therefore, in this dilemma the best course was to relinquish to the Seminary of Montreal all the right, title and interest which they held in the property, and accordingly they did thereby *cede and abandon and transfer* to the Seminary of Montreal the Seigniories of the Island of Montreal and Côte St. Sulpice, the Lake of the Two Mountains, and one moiety of the Seigniorie of Bourchemin, to be held by the Seminary of Montreal as their property, in the same manner as the Seminary of St. Sulpice had until the conquest held or of right ought to have held them, the whole being transferred in the state in which they then were, *without any guarantee* on the part of the former proprietors, the Seminary of Saint Sulpice at Paris.

This deed, of which I annex to this Report an entire copy, appears upon the point now under consideration to be so conclusive that I shall not trouble Your Excellency with any further extracts. It is an admission by the parties themselves of all that I assert. And it is remarkable

that so late as the year 1781, in the Act of fealty and homage tendered to His Excellency Sir Frederick Haldimand by the Seminary of Montreal, they do not pretend to have any right or title to the Estates in question, except what they derive from this conveyance from the Seminary of Paris. This Act of fealty and homage first enumerates the several titles by which the Seminary of St. Sulpice acquired and held the Estates in question, the cession of the 29th April, 1764, from them to the Seminary of Montreal, and then concludes in these words: "Les dits
 " Fiefs et Seigneuries étant la propriété immuable de
 " Messieurs les Ecclésiastiques du Séminaire de Montréal,
 " *à cause de la cession* qui leur a été faite par Messieurs
 " *les Ecclésiastiques du Séminaire de St. Sulpice de Paris,*
 " vingt-neuf Avril, mil sept cent soixante-quatre, rapporté
 " ci-dessus."

From the evidence which I have had the honor to lay before Your Excellency it seems certain that the Seminary of Montreal was not at the conquest a body or community distinct from that of the Society or Seminary of St. Sulpice of Paris, and that the priests which composed it did not constitute in themselves a body corporate capable to take and hold estates in mortmain; that the priests of St. Sulpice, who were resident at Montreal, were merely deputed agents for the Seminary of St. Sulpice at Paris, (to whom all the property in question was granted, and in whom all title thereto was vested,) and as such administered the Estates in Canada: and this being the fact I fully concur in the sentiments of Sir James Marriot, contained in his Report of the year 1773, above referred to, and the opinion of His Majesty's Attorney and Solicitor General of this Province expressed in the observations and remarks referred to me, and am clearly of opinion that the whole of the Estates lying in this Province claimed by the Seminary of Montreal are lapsed to His Majesty by right of conquest and acquired sovereignty, as the property of a foreign society domiciled at Paris and not in Canada at the time of the conquest. I am further clearly of opinion that the deed of cession of the 29th of April, 1764, from the Seminary of St. Sulpice of Paris to the Seminary of Montreal is ipso facto null and void, for the Estates had, in fact,

long before vested in His Majesty, the conveyance being subsequent not only to the capitulations of Quebec and Montreal, but to the treaty of peace of 1763, by which Canada was ceded in full sovereignty to the Crown of Great Britain, and it is therefore perhaps unnecessary to add that the Seminary of Paris at the time had not only no property in the Estates which they undertook to convey, but had not in law any right or authority whatever to transfer them, especially to the Seminary of Montreal, who not being a distinct community, but a section only of the Seminary or Community of the Ecclesiastics of the Church of St. Sulpice of Paris, had not, therefore, in themselves alone any legal capacity whatever to take or hold estates in mortmain.

But even supposing that the priests of St. Sulpice, composing the Seminary of Montreal, at the conquest really were entitled at that time to hold and enjoy in their own right the Estates belonging to the Seminary of St. Sulpice, in Canada, *I cannot conceive that this right could possibly be extended beyond the term of their natural lives, and as all who were living at the conquest are now dead, the Order of St. Sulpice, quoad Canada, must, I think, have expired with them, for the Seminary of Montreal possessed no power to create priests of St. Sulpice, and those therefore who are now in possession, whether subjects or aliens by birth, if they be Ecclesiastics of the Church of St. Sulpice at all (of which we can have no proof,) must have become such under some foreign authority, and the right of any foreign authority to qualify members to hold real property in any British dominion cannot in my opinion be admitted or recognized for a moment, especially in Ecclesiastical matters.*

I am therefore further of opinion that if the priests, of St. Sulpice, resident at the conquest in Canada, were in fact at that time under the name of the Seminary of Montreal a body corporate, capable of holding real estate in mortmain, that such body corporate has been *long since dissolved* by the natural deaths of its members, and consequently that the Estates in question have thereby reverted to His Majesty, their right and lawful heir.

I cannot leave this part of the subject without recalling to the recollection of Your Excellency, that Mr. Roux and

the other French emigrant priests of St. Sulpice, now in possession of the Estates in Montreal, obtained from His Majesty, in the year 1798, a mandamus directing Letters Patent to issue under the great seal of Lower Canada, *declaring them denizens within the limits of the Province.* It may become a question whether they have any legal rights whatever under this partial and local denization, *but, certain I am that it does not enable them either as individuals or as members of a corporation, to hold real estate in this Colony.* By our law, aliens have communio-nem juris gentium but not juris civilis, and therefore nothing short of complete naturalization can enable them to hold immoveable or real property.

As to the means by which His Majesty, if he shall see fit, can enter into the possession of the Estates which are the subject of this Report, there is on this point very little difficulty.

If the Seminary of Montreal can be supposed to have been a distinct body corporate, it may perhaps be best to proceed in the first instance by an information in the nature of a quo warranto against the persons who now claim to be considered as that body corporate, and upon obtaining a judgment against them declaring the corporation to be dissolved, to enable the Sheriff in the District of Montreal, in which all the Estates are situate, to enter upon them for and on the behalf of His Majesty, by commission under the great seal of the Province, a measure which was lately adopted upon the dissolution of the order of Jesuits by the natural death of the last surviving member of that community.

A second means is to institute in the name of His Majesty a civil action against the several priests who now hold the Estates by name as individuals, to try their title, and recover from them the possession of the whole. This is called in the Law of Canada a petitory action, and is equivalent to the English action of ejectment.

A third means is for His Majesty to prohibit the admission of any new members into the Seminary of Montreal, from whence suppression and dissolution will follow of course, *and of His Majesty's right so to do, if he he should see fit, there can be no doubt, for the same Law of*

France which acknowledges in the sovereign a power to prohibit the establishment of any community or other religious house without his permission, by consequence acknowledges his power to forbid any other members being admitted into the communities or religious houses already established, and which were originally founded under the Royal authority.

A fourth means is an amicable arrangement with the priests of the Seminary of Montreal, inducing them to withdraw (especially the aliens, natives of France,) upon assurances of a proper provision for life from the revenues of the Estates.

A fifth means is an Act of the Imperial Parliament, declaring that the Estates were vested in His Majesty by the conquest, and are now his property, securing to the several priests now in possession such pensions as may be thought proper for them respectively for life, and appropriating the Estates to the encouragement of learning, the support of an University, or such other public purpose as the wisdom of Parliament shall find expedient.

And I am of opinion that either of the means will be effectual.

All which nevertheless is most respectfully submitted to Your Excellency's great wisdom, by,

Sir,

Your Excellency's most obedient

And most humble servant,

(Signed,) J. SEWELL,

Attorney General,

Lower Canada.

Quebec, 2nd July, 1804.

Copy of the conveyance from the Seminary of St. Sulpice of Paris to the Seminary of Montreal, of the 29th of April, 1764, referred to in the Report of the Attorney General, of the 2nd July, 1804, respecting the Estates in Canada, formerly belonging to the first mentioned community.

PAR DEVANT les Conseillers du Roi, Notaires, à Paris, soussignés, furent présents Mtre. Jean Consturrier, Docteur

de Sorbonne, Supérieur du Séminaire de St. Sulpice, établi à Paris, rue de Vieulx Colombier, P. Be. Saint Sulpice, Messire Ivicix de Beaupoil, Docteur de Sorbonne, Messire Claude Bourachot, Docteur de Sorbonne, Messire Louis Legrand, Docteur de Sorbonne, et Messire Jean Moiraud, Bachelier de Sorbonne, tous prêtres du dit Séminaire de St. Sulpice, y demeurants, et représentants la communauté du dit Séminaire, d'une part, et Messire Etienne de Montgolfier, Prêtre, Supérieur du Séminaire de Montréal, en Canada, y demeurant ordinairement, étant de présent à Paris, logé au dit Séminaire de St. Sulpice, stipulant pour lui et pour la communauté du dit Séminaire de Montréal, d'autre part.

Lesquels ont dit que le dit Séminaire de St. Sulpice de Paris est propriétaire de la terre et Seigneurie de l'Isle de Montréal, de celle de la Côte de St. Sulpice, de celle du Lac des Deux-Montagnes, de la moitié de celle de Bourchemin, de la moitié de celle de St. Herman : ces deux dernières terres sont situées sur la Rivière de Yamaska, les dites moitiés à prendre au nord-est et du côté de Saint François, ensemble des annexés, appartenances et dépendances des dites terres, droits de justice, de chasse, de pêche, de Fiefs et censives, de cens, d'échanges, rentes et redevances Seigneuriales sur les terrains concédés aux vassaux, et tous autres droits, et du Greffe de la Justice Royale de Montréal.

Que les dites terres et dépendances, et le dit Greffe appartiennent au dit Séminaire, au moyen de la donation qui lui en a été faite devant Levasseur et son confrère, Notaires, à Paris, le neuf Mars, mil soixante-et-trois, insinuée le cinq Juin de la même année, suivant d'autres Actes y annoncés suivant des Lettres Patentes accordées par feu Sa Majesté Louis Quatorze, en Mai, mil six cent soixante dix-sept, enregistrées au Conseil Souverain de Québec, le vingt Septembre de la même année, suivant les brevets de Sa Majesté, du vingt-sept Avril, mil sept cent trente-cinq, aussi enregistrés au Conseil Souverain de Québec, les deux Octobre mil sept cent dix-neuf et douze Octobre mil sept cent trente-cinq, suivant un Edit du mois de Mars, mil six cent quatre vingt-treize, enregistré au dit Conseil le cinq d'Octobre de la même année, suivant les Lettres Patentes

en interprétation, du mois de Juillet, mil sept cent dix-sept, et suivant une donation faite devant Barbel, Notaire Royale, a Québec, le dix-neuf Octobre, mil sept cent trente-cinq, insinuée le neuf Janvier suivant, acceptée par le dit Séminaire de Saint Sulpice par Acte passé devant Mtre. Bois, Notaire, à Paris, et son confrère, le onze Avril, mil sept cent trente-sept, de tous lesquels titres il n'a été fait plus ample énoncé, la plus grande partie étant en Canada, et le dit Sieur de Montgolfier déclarant les bien connaître.

Aux termes et aux conditions de ces donations, et suivant les Lettres Patentes du mois de Mai, mil six cent soixante et dix-sept, et autres titres ci-dessus énoncés, *les terres, biens, greffes et droits y dépendants, devraient être inséparablement unis au Séminaire de Saint Sulpice de Paris, sans en pouvoir être séparés pour quelque cause que ce fut;* mais le Canada est actuellement sous la domination du Roi de la Grande Bretagne, qui veut que les étrangers et colons propriétaires de biens situés au Canada, qui ne voudront pas rester ses sujets, aliènent ce qu'ils possèdent en Canada, sous peine de confiscation. Ce prince interdit aux Ecclésiastiques du Séminaire de Montréal, et à ceux qui sont répandus dans les cures et dans les missions qui en dépendent, l'union et la correspondance qu'ils avaient avec le Séminaire de St. Sulpice d'où ils ont été tirés.

Des ordres aussi précis et aussi absolus d'une autorité souveraine qui veut être obéie, mettent le Séminaire de St. Sulpice de Paris dans la position la plus embarrassante; s'il ne vend pas les terres, biens et droits qui lui appartiennent en Canada, ils seront constamment confisqués, s'il les vend, il ne remplit point le vœu des donateurs de ces terres, biens et droits, n'y les conditions sous lesquelles ils ont été concédés, puisque la religion n'y trouverait plus les secours, les ressources que procurent les revenus de ces terres et biens; il faudrait donner ces biens à beaucoup au-dessous de leur valeur, accepter les premiers acquéreurs qui se présenteraient, qui ne porteraient pas ces biens à leur valeur, qui seraient ou deviendraient peut-être insolubles, ou ne pourraient pas dispenser de distraire de ces biens les bâtimens qui sont essentiellement nécessaires aux Ecclésiastiques qui composent le Séminaire de Montréal, et ceux des dits biens dont les revenus les font subsister, et les Ecclé-

siastiques qui sont répandus dans les cures et dans les missions pour le bien, pour le soutien de la religion, et pour-y continuer leurs bonnes œuvres; les Ecclésiastiques qui sont en Canada ont fait serment de fidélité au Roi de la Grande Bretagne comme leur Souverain, dont ils sont devenus les sujets.

Dans ces circonstances les dits Sieurs sus-nommés composants la Communauté du Séminaire de St. Sulpice, conduits par le motif de religion qui a fait faire des donations ci-dessus à leur Séminaire, et voulant, autant qu'il est en eux, remplir le vœu des donateurs, après une mûre délibération, de leur communauté qu'ils représentent, consultant moins les intérêts du Séminaire de St. Sulpice de Paris que le bien de la religion, ont cru qu'ils devaient et ne pouvaient mieux faire que d'abandonner au dit Séminaire de Montréal des biens et droits dont la vente serait longue, difficile et douteuse, ou dont la confiscation serait ordonnée faute de faire cette vente dans des temps convenables, en conséquence les parties sont convenues de ce qui suit:

Les dits Sieurs Consturier, de Beaupoil, Bourachot, Legrand et Moiraud, ès dits noms et qualités, ont cédé, délaissé et abandonné, cèdent, délaissent et abandonnent par ces présentes, même en tant que de besoin font donation pour le dit Séminaire de l'Isle de Montréal, établi dans la ville de Montréal, dite Ville-Marie, par Lettres Patentes du mois de Mai, mil six cent soixante et dix-sept, l'acceptant pour le dit Séminaire de Montréal, le dit Sieur de Montgolfier, Supérieur du dit Séminaire.

Les terres et Seigneuries de l'Isle de Montréal, de la Côte St. Sulpice, du Lac des Deux-Montagnes, les dites moitiés de terre et Seigneurie de Bourchemin et de Saint Herman, avec les bâtimens, appartenances et dépendances des dites terres, les droits de justice, de chasse, de pêche, de fiefs et censives, de cens, rentes et redevances Seigneuriales sur les terrains concédés aux vassaux, la nomination aux cures et missions dépendantes du Séminaire de Montréal, dans l'Isle et Gouvernement de Montréal, tous les bâtimens, augmentations, améliorations, défrichemens qui ont été faits depuis les concessions et donations, le Greffe de la Justice Royale de l'Isle de Montréal, et tous autres biens et

droits qui appartiennent et peuvent appartenir en Canada, au dit Séminaire de Saint Sulpice de Paris, sans aucune chose en excepter, retenir ni réserver.

Pour de tout ce que dessus cédé et abandonné, jouir par le dit Séminaire de Montréal, en toute propriété *de ce jourd'hui*, et percevoir les droits, fruits, produits et revenus échus de tout le passé, comme bon le semblera aux Supérieurs et Communauté du dit Séminaire de Montréal, comme de chose leur appartenante, ainsi que le dit Séminaire de Paris en a joui ou dû jouir de tout le passé qu'il a droit d'en jouir à présent, et qu'il aurait droit de le faire par la suite. Le dit Séminaire de Paris; abandonnant et cédant, même donnant les dites terres, biens, droits et greffes dans l'état où ils sont actuellement, avec toutes leurs appartenances et dépendances comme dit est, sans aucune chose en excepter, ni réserver.

Les cessions et abandons sont faits pour les causes et les motifs susdits, à la charge par le dit Séminaire de Montréal, ainsi que le dit Sieur de Montgolfier l'y oblige, d'exécuter les charges, conditions, fondations, dont l'exécution doit avoir lieu aux termes des cessions et donations des biens ci-dessus donnés, desquelles charges, conditions et fondations le dit Sieur de Montgolfier a dit que lui et les Ecclésiastiques qui composent le Séminaire de Montréal, avaient parfaite connaissance, et de faire en sorte *que pour raison de ce et au moyen du présent abandonnement, le dit Séminaire de Paris, et ceux qui le composent et le composeront par la suite ne soient jamais inquiétés, poursuivis, ni recherchés en façon quelconque*; le dit Sieur de Montgolfier en faisant les propres affaires, charges et obligations du dit Séminaire de Montréal, et aussi à la charge pour le bien de la religion, de continuer les bonnes œuvres qui y ont été faites de tout le passé.

Car ainsi le tout a été convenu et rédigé à la réquisition des parties qui, pour l'exécution des présentes, font élection de domicile à Paris, en leur demeure susdite, auquel lieu nonobstant promettant, obligeant, renonçant, fait et passé à Paris, au dit Séminaire de Saint Sulpice, dans l'appartement du dit Sieur Consturier, le vingt-neuvième jour du mois d'Avril de l'année mil sept cent soixante-quatre,

avant-midi, et ont signé la minute des présentes demeurée
à M. Mathon, l'un des Notaires soussignés.

(Signé,) MATHON, avec *Paraphe*,
DOUCHEZ, avec *Paraphe*.

Memorandum of the total quantity of Land granted in
Canada previous to the conquest, with the proportions
thereof granted to the Church and Laity :

	<i>Acres.</i>
Total amount of grants, ...	7,985,470
To the Church :	
Quebec Ursulines, ...	164,615
Three Rivers Ursulines, ...	38,909
Recollets, ...	945
Bishop and Seminary of Quebec, ...	693,324
Jesuits, ...	891,845
St. Sulpicians, ...	250,191
General Hospital, Quebec, ...	73
Do. do. Montreal, ...	404
Hotel Dieu, Quebec, ...	14,112
Sœurs Grises, ...	42,336
	2,096,754
To the Laity, ...	5,888,716
	7,985,470

To the Church nearly one-fourth.

Transmitted to England by Lieutenant Governor Sir R. S. Milnes, in the
year 1800.

MR. RYLAND TO MR. PEEL.

LONDON, 11th July, 1811.

SIR,—Having been honored by you with a communica-
tion of the joint Report of His Majesty's Advocate, Attor-
ney and Solicitor General, concerning the rights of the
Crown with regard to the St. Sulpician Estates, and to the
patronage of the Romish Church in the Province of
Lower Canada, I trust I may be allowed, with great defer-

ence, to submit to you a few reflections on the subject, previous to the final determination of His Majesty's Ministers concerning it.

It is very satisfactory to observe that the opinions expressed in the present Report perfectly accord with those given by the former Advocate General, Sir James Marriot, in his elaborate Report to the King in the year 1773, with the opinion and remarks which the Attorney and Solicitor General of the Province of Quebec submitted to the Executive Council of the year 1788, as well as with the opinions since given by the late Provincial Attorney General (now Mr. Chief Justice Sewell,) to which reference has been had on the present occasion.

To persons not intimately acquainted with the politics of the British North American Provinces it may appear strange that matters of this importance should remain for so many years undecided; but it might not be difficult to assign adequate reasons for so extraordinary a circumstance, no way derogating from the rights of the Crown, were it necessary, at the present moment, to obtrude them upon you. I think it better, however, in what I have to say, to confine myself to the positive acknowledged principle, that His Majesty has a *right* to dispose as he pleases of the estates in Lower Canada, which formerly belonged to the Society of St. Sulpice at Paris, and to exercise, *ad libitum*, the Royal supremacy with respect to the Romish Church in that Province.

When Lieutenant Governor Milnes, in the year 1800, called upon Monsieur Roux for an account of the revenues of the above mentioned estates, an idea prevailed that the management of them was about to be taken into the hands of Government, and I have no doubt that orders to this effect would, at any time, be quietly acquiesced in, more especially were His Majesty graciously pleased to incorporate the persons now in possession of them, and to appropriate a certain part of the annual revenues of those estates (under the direction of such corporate body) to the purposes to which the whole are now applied.*

* This has since, to the general satisfaction, been done by an ordinance of the Right Hon. Poulett Thompson, Governor General, and Special Council of Lower Canada, in 1840.—R. C.

I beg leave to repeat an observation which I made in my letter to you of the 27th June, "that the property in question, which, in Sir James Marriot's Report of the year 1773, is described as "a fine and improving estate of *eight thousand pounds sterling a year*," is stated by Mons. Roux, on an average of five years, to produce only £3750 per annum, at the distance of twenty-seven years from the time when the above Report was made! Yet there is no person conversant with the subject who will not readily allow that the value of those estates has more than doubled since the above period! But the proceedings which took place before the Governor and Council in the year 1788, publicly exposed the utter want of title in the persons who *then* had possession of the estates (and who were His Majesty's subjects by conquest, whereas the present possessors are chiefly French emigrants,) and from this circumstance it is easy to account for the rapid diminution in the produce of them since that time.

I am, therefore, humbly of opinion that there would be little difficulty in bringing the persons now in possession to *an amicable arrangement* which might leave at their disposal the Seminary buildings on the Island of Montreal, and a yearly sum equal to what they themselves have stated to be the *net* revenue on an average of five years, and which would place in the hands of the Crown a property that might soon be made to produce five times the amount annually of what it now yields.

Allow me here to observe, that the lands and buildings belonging to the Recollets in Lower Canada were taken possession of by Government only twelve years ago, and the estates possessed by the late Order of Jesuits, in the year 1800, without exciting any sensation in the Province.*

With regard to that part of the Report of the Law officers of the Crown, which relates to His Majesty's right of presentation to vacant Church livings in Lower Canada, I shall not at this time take the liberty of entering into the subject, having already had the honor, in a letter dated the 4th of August last, of stating to you the opinion of Sir James Craig with respect to the most eligible mode of assuming the patronage of the Romish Church; and

* See Journal of the Assembly for the year 1800, pages 42-6.

having, in a subsequent letter, dated the 22nd April, pointed out some of the serious evils which the Clergy themselves, and the Province at large, suffer from the want of a legal induction to cures, and a legally established authority for the erection of parishes, and the building of churches in the Province of Lower Canada.

One general observation only I will presume to make, with respect to the *policy* of the measures that have been recommended by the Governor in Chief, which is, that it appears evidently for the advantage of the Imperial Government that every prudent step should be taken for assimilating the inhabitants of Lower Canada in language and laws with those of the parent State; and that the Constitution of 1791, by giving to the Colony a House of Assembly, four-fifths of whose members differ in language and religion from those of their fellow subjects, who are chiefly interested in the commerce of the Province, and whose principal connexions are in the mother country, has afforded the strongest possible means of preventing such an assimilation, and rendered it indispensably necessary to secure to the Crown that degree of influence which now, I fear, can only be obtained by the adoption of the measures the Governor in Chief has proposed.

I have the honor to be,
&c., &c.,

H. W. RYLAND.

MR. PEEL TO MR. RYLAND.

12th July, 1811.

MY DEAR SIR,—Lord Liverpool has written the enclosed copy of a letter to Sir George Prevost, and desires me to communicate it to you.

I am yours very faithfully,

R. PEEL.

(Inclosure.)

LONDON, 12th July, 1811.

SIR,—Mr. Ryland, who has for many years held the situation of Secretary to the Governor of Lower Canada, arrived in this country in the month of July last, charged by Sir James Craig with despatches of considerable importance.

During his residence in England I have had frequent occasion to avail myself of his information upon many points in which the interests of Canada are deeply involved, and I have great pleasure in taking this opportunity of bearing my testimony to the zeal and ability which Mr. Ryland has shown.

I should much regret that the claim to your notice, which Mr. Ryland's long services have given him, should be in any way prejudiced by his absence from Canada on your assumption of the Government, and it will give me great satisfaction to learn, provided it does not materially interfere with any other arrangements which you may have made, that Mr. Ryland is retained by you in the situation which he now holds.

I have the honor, &c.,

(Signed,) LIVERPOOL.

Lieutenant Governor.

Sir George Prevost, Bart.,

&c., &c., &c.,

Nova Scotia.

THE EARL OF LIVERPOOL TO GENERAL SIR JAMES
H. CRAIG, K. B.

DOWNING STREET, 31st July, 1811.

SIR,—I have received your letter of the 29th instant, and I have taken the earliest opportunity of submitting it to His Royal Highness the Prince Regent.

His Royal Highness has commanded me to assure you, that he considers you to have been perfectly justified, in consequence of the state of your health, in taking advantage of the opportunity which presented itself of returning to this country, and His Royal Highness has, in the *whole tenor* of your public conduct, a sufficient assurance that necessity alone could have induced you to resign a charge which was entrusted to you with the fullest and justest confidence.

His Royal Highness has further commanded me to repeat to you his *high* approbation of your general conduct in the administration of the Government of the North

American Provinces, and his *particular* regret at the cause which has compelled you to solicit the appointment of a successor.

I have the honor to be,
Sir,

Your most obedient humble servant,
LIVERPOOL.

LANDS HELD IN MORTMAIN BY THE ROMISH CLERGY.

MEMORANDUM OF ESTATES HELD BY OR GIVEN TO RELIGIOUS BODIES IN LOWER CANADA, TAKEN FROM THE EXTRAIT DES TITRES DE CONCESSIONS DE TERRES OCTROYEES EN FIEFS, ETC.

1st. A concession made, in the year 1674, to François Laval, first Bishop of Quebec, of five leagues in front by five in depth, on the River St. Lawrence, about forty-two leagues above Montreal.

N. B.—This concession was not acknowledged by the British Government to be valid, till the year when the Seminary of Quebec, to whom half of the concession had been made over, disposed of the same to Mr. Papineau, Sen., of Montreal, who was admitted to perform fealty and homage as purchaser thereof.

2nd. Certain French emigrant priests who came into the Province during the worst periods of the French Revolution have been allowed to possess themselves, under the title of the "Seminary of Montreal," of the estates that were originally granted under the French Government to the Society of St. Sulpicians at Paris. These estates consist of :

1st. The Seigniory of the Lake of the Two Mountains, comprehending a tract of country three leagues and a half in front, on the River St. Lawrence, by eight in depth.

2nd. The Seigniory of the Island of Montreal, of inestimable value.

3rd. The Seigniory of St. Sulpice, comprehending two leagues in front, on the River St. Lawrence, by six in depth.

N. B.—A part of the above property only was estimated by Sir James Marriot, in his luminous report to the King, dated 1773, to be worth six thousand pounds, sterling, a year. It has since been stated by Mr. Roux, a French emigrant priest, who has the chief management of the property, to produce only three thousand seven hundred pounds a year, on an average of five years. It is, however, an undoubted fact, that the value of property of this nature, at the present moment, in Canada, is at least six times greater than it was at the period above mentioned. But it is to be observed, that the known want of title in the persons styling themselves the Corporation of "the Seminary of Montreal," precludes them from supporting their claims in the King's Courts, and hence it may happen that these estates are infinitely less productive than they would be under the management of persons appointed by the Crown, to which, by the right of conquest and the cession of Canada, they actually belong. (Vide Sir James Marriot's Report above cited, also the Report of the Attorney and Solicitor General of the Province of Quebec, dated .)

The Report of Mr. Attorney General Sewell, dated , and the joint Report of the Advocate, Attorney and Solicitor General, addressed to the Earl of Liverpool, dated 3rd July, 1811.

LANDS HELD BY THE ST. SULPICIAN OF PARIS.

Island of Montreal,	125,706 acres.
St. Sulpice and Lake of the Two Mountains,	104,755 "
	230,461 "

SEMINARY OF QUEBEC.

Côte de Beaupré,	503,824 acres.
Isle Jesus, near Montreal, Isle au Gendres, &c., &c.,	47,888 "
	551,712 "

H. W. R.

MR. RYLAND TO SIR J. H. CRAIG, K. B.

LONDON, *Thursday, 29th August, 1811.*

DEAR SIR,—I have this moment received a letter from Sir George Prevost, purporting to be a duplicate of that

which I showed you a few days ago, but in which I think I perceive an essential difference. I beg leave, therefore, to enclose both of them for your perusal, together with a copy of my letter to him of the 4th June, to which they are an answer. You will perceive that my letter to Sir George was written under the most painful apprehensions with respect to yourself, from which I have since had the happiness of being relieved, but the impression under which I wrote will, I flatter myself, justify the communication I took the liberty of making to Sir George of the matters under the consideration of His Majesty's Ministers; and Mr. Peel, to whom I gave a copy of my letter, fully approved it.

In Sir George's second letter you will observe that he particularly adverts to the situation of Civil Secretary as having formed an essential part of that which I wrote to him, whereas I did not once mention the appointment. The fact is, I neither wished to solicit nor to decline the honor of serving under him in that capacity, for there is nothing that would be more repugnant to my feelings than to be *put upon* a public officer in this way; and I had requested Mr. Peel to acquaint Lord Liverpool with my sentiments in this respect, previous to His Lordship's doing me the honor of mentioning me to Sir George Prevost.

I confess, Sir, I feel deeply interested in all which you have proposed for increasing the influence of the Crown in Lower Canada, on which, in my opinion, the tranquillity and even the safety of the Province depends, and I should consider it as the proudest event of my life to be instrumental towards obtaining a successful determination on the very important matters which you intrusted to my management; but it appears to me, from the very cold reception my communications have met with from Sir George Prevost, and from the alteration in his style, after having had time to reflect upon them, that a different system will be pursued when he takes upon himself the Government of Lower Canada, and that he will be disposed to avail himself of any fair pretence to decline accepting of my services as Secretary, and as it will be no easy matter for me, after having had the happiness to serve under you, to transfer my attachment to another person, I really shall

feel very little regret in relinquishing the situation. I cannot, however, but be anxious to return to Canada with some public mark of approbation, and I hope, dear Sir, you will not think me importunate if I solicit your interference for this purpose, previous to your final relinquishment of the Government.

I have the honor to be,

Dear Sir,

Your most faithful humble servant,
HERMAN W. RYLAND.

MR. RYLAND TO MR. PEEL.

1, POET'S CORNER, WESTMINSTER,

Sunday Evening, 24th Nov., 1811.

SIR,—From your having sent to me a few days since for a copy of my letter to you of the 4th August, 1810, I conclude the rights of the Crown, with respect to the Romish Church in Lower Canada, are about to be taken into consideration; and I beg leave, on this occasion, to remind you of my letter of the 22nd April last, which was accompanied by documents that I think will be found deserving of the most serious attention, previous to the final determination of His Majesty's Government on this very important subject.

The Roman Catholic Clergy in Lower Canada are, by the Quebec Act of the year 1774, placed on a very different footing from the Romish Clergy in any other part of His Majesty's dominions, as under authority of the above Act they are empowered to receive and enjoy the accustomed dues and rights of Parochial Clergy; but, to enable them to do this, I humbly conceive they must be *legally* appointed to their respective parishes, and those parishes also be formed and created according to law. His Majesty's Law servants, both here and in Canada, have unanimously given it as their opinion, that the right of presentation to Church livings, (as well as the right of erecting parishes,) belongs to the Crown. It appears, therefore, that, till this right shall be exercised on the part of His Majesty, no curate, within the Province of Lower Canada, can have legal possession of his cure, for it is to

be observed that no private patronage exists in that Province, or if there be an instance of the kind, as suggested in the Report of the Law officers of the 3rd July last, it has never come to my knowledge.

These circumstances surely prove the urgent necessity for the interference of the Crown, to secure to the Clergy themselves their just privileges, and to prevent their parishioners from avoiding payment of tythes, whenever they come to have sufficient courage and information to avail themselves, in His Majesty's Courts, of a want of legal induction on the part of their curates.

With regard to the Romish Bishop and his Coadjutor, I may observe, that all the authority which they derive from the Crown arises from their being chosen, or nominated, in the first instance, by the Governor or person administering the Government of the Province for the time being,* and afterwards admitted to take the oath of allegiance before him in Council; or, as was practised in the year 1784 under the administration of Lieutenant Governor Hamilton, before certain Members of the Council, appointed for the purpose.

* On the decease of the Bishop, his Coadjutor succeeded him, and it consequently became necessary to appoint his successor. The individual to replace him, it is said, was usually agreed upon in a private and confidential conference between the Governor and Bishop, who, therefore, it is most likely, suggested, in the first instance, the individual of his Clergy whom he deemed the fittest for the post, and whose appointment being acceptable was accordingly confirmed by a Papal Bull at the instance of the Bishop, and simply on this verbal and friendly understanding with the Governor. This usage is, however, now abandoned, and one of total independence of the Government adopted in its stead. At the period alluded to there was but one Roman Catholic Bishop, aided by his Coadjutor, for all Canada, including also the neighbouring Provinces. He had indeed, strictly speaking, if the opinions of the Law officers of the Crown in England are to be the test, no *legal* authority, his office, even as they alleged, being, by the laws of England, extinguished with the conquest and cession of Canada by the Crown of France; but in *spirituals* his mandates were, nevertheless, scrupulously observed by his Clergy. The capitulations of Quebec and Montreal were, however, drawn up and agreed to in a spirit favorable to existing rights, including those of the Clergy, as far as the laws of England permitted; and in justice, as well as in good policy, those rights have been respected, even in disregard to a certain

Thus, if the present Bishop were to die, his Coadjutor, Monsieur Panet (who, after his nomination as such by Mr. President Dunn, was created, by the Pope, titular Bishop of some place, I believe, in Africa,) would be allowed to take the above oath before the Governor and Council, as successor to Monsieur Plessis, and thereupon proceed, without any other authority from the Crown, to appoint, and remove at pleasure, the Parochial Clergy throughout the Province, to create new, or subdivide old parishes, as he thought fit, and in other respects to exercise powers and prerogatives far surpassing, in general influence, any that are exercised by the King's Representative!

To show you, however, that the Romish Bishop considers his appointment as dependant entirely on the nomination of the Governor, in the first instance, I take the liberty of enclosing for your perusal a letter which was written to me in the year 1798 by the present Bishop, Monsieur Plessis, who had, in the preceding year, been made choice of as Coadjutor by General Prescott, and thought himself under some obligation to me for that nomination. Subsequent experience has convinced me, that great detriment has arisen to the interests of the

degree of those laws. Bishop Plessis was created, in 1819, Archbishop, (the first in Canada of that title,) by Bull of Pope Pius the Seventh, which reached Quebec in July of that year, on the day of his sailing for England, but a few hours after his departure. He, however, did not on his return deem it advisable to assume the title, as his successors have done, and seemingly without objection on the part of the Government. Canada has since that period been divided into several Roman Catholic Dioceses, and which, to a certain extent, are recognised by Acts of the Provincial Parliament. The manner in which the Bishops of these Dioceses, on the occurrence of a vacancy, are now, in the first instance, nominated, differs very essentially from the former mode, neither Governor nor Government being at all consulted on the subject. They are named by the "CONCILE" of Roman Catholic Bishops of the Archiepiscopal Province, meeting triennially at Quebec, or by the Chapter of the Cathedral, to whom the right, it is said, of electing the Bishop belongs, if the vacancy occurs during the recess of the "Concile" of Bishops. The nomination of the Bishop elect being confirmed by a Papal Bull, his appointment is then formally announced to the Governor of the Province for the time being, not for his approval, but that he may be apprised officially of the fact that such an appointment has taken place. On the decease of the Archbishop, he also is replaced in like manner, unless, as is at present the case

Crown from this easy and informal mode of investing an individual with the most important and influential powers that can be exercised under the Colonial Government; and I hope I shall not be thought to assume too much, if I avail myself of this opportunity to suggest of how great advantage it might be if the Governors of Lower Canada were instructed in future not to nominate any person to be Bishop or Coadjutor, or to be Superintendent or Assistant Superintendent of the Romish Church in that Province, till he has received His Majesty's approbation of the individual proposed to fill that office.

This regulation alone would be a decisive exercise of the King's supremacy, and operate as a powerful check to the inordinate pretensions of the persons aspiring to hold either of the above situations. I think, also, that every Governor would be happy to avail himself of it for so useful a purpose.

I have the honor to be, &c., &c.,

H. W. RYLAND.

P. S.—I beg you will be assured that I have no other motive for laying before you the enclosed letter than as a proof of what I have advanced, and I shall be obliged to you to return it to me at your leisure.

Copy of the Inclosure.

QUEBEC, 8 Juin, 1798.

MONSIEUR,—Ne sachant au juste quel est le jour déterminé pour votre départ, et craignant de vous troubler dans des momens où je sais que les soins se multiplient, je

there be a Bishop in the Diocese, (l'Evêque de Tloa, Monseigneur Baillargeon,) appointed "*cum futura successione*," by His Holiness who succeeds of right to the Archbishopric.

It is not my purpose to make any comments on the above, further than to remark that the new system seemingly is approved of by the Government, and indeed that so far it practically works well, and apparently to the general satisfaction. But it may, *en passant*, also very freely be averred, that it would be but little to the taste of the fervent old English spirit that endited some of the letters we are perusing, who certainly, if, like Lazarus, it were possible to recall him from the grave, would see with great astonishment the changes that have taken place since his day. Nevertheless, they are all, it is to be hoped, for the best. Time will tell.—B. G.

Quebec, 11th April, 1855.

prends la liberté de vous adresser une lettre pour un de mes amis à Londres.

Permettez que je profite de cette occasion pour vous exprimer de nouveau les regrets qu'excite en moi votre départ de cette province. Ces regrets me sont communs avec tous les honnêtes gens qui ont l'avantage de vous connaître, et qui savent apprécier le mérite. Mais aucun d'eux n'a de motifs aussi particuliers que moi de se souvenir du temps que vous avez passé à Québec. Je me rappelle avec une nouvelle gratitude la protection que vous m'avez accordé l'année dernière et depuis. C'est à vos soins que je suis redevable de la place que j'occupe, et les autres bontés qu'a eu pour moi le Général Prescott. Le motif qui vous a porté à me protéger augmente le mérite de cette œuvre, puisque vous avez cru que le bien de la province devait résulter de ma promotion. Je m'efforcerai de remplir vos espérances, et de mériter la continuation de l'estime que vous avez bien voulu me témoigner.

Réciproquement comme je ne doute pas que votre retour en Angleterre ne vous procure bientôt quelque poste avantageux, et que personne ne s'intéresse plus vivement que moi à ce qui vous concerne, je vous demande comme une faveur de me faire connaître votre adresse, lorsque vous serez à Londres, afin que j'aie la satisfaction de pouvoir de temps en temps me rappeler à votre souvenir. J'espère que vos protecteurs seront les miens, et que si quelques uns de vos amis sont appointés pour quelque place importante dans le gouvernement civil ou militaire de ce pays, vous voudrez bien me recommander à eux, et me procurer leur connaissance. Vous savez combien je suis dévoué au gouvernement de Sa Majesté.

Monseigneur de Québec, dont je connais les sentiments pour vous, ne sera pas moins sensible que moi à votre retraite. Je ne crois pas m'avancer trop en vous exprimant ici ses regrets et son estime toute particulière.

J'ai l'honneur d'être bien parfaitement, Monsieur,

Votre très humble et

Très obéissant serviteur,

(Signé.) J. O. PLESSIS.

P. S.—Permettez que Madame Ryland trouve ici mes assurances de respects.

H. W. Ryland, Ecuier, Québec.

MR. RYLAND TO MR. PEEL.

1, POET'S CORNER,
WESTMINSTER, 23rd December, 1811.

DEAR SIR,—After I left you on Saturday, I called on Lieutenant Governor Gore, and had some conversation with him concerning Indian affairs; but we were interrupted by company, and I was under the necessity of leaving him, without entering so fully into the subject as I wished. He is going out of town for the holidays, and promises I shall see him at his return.

If you can allow me to have, for a few hours, the proposed establishment for the Indian Department in Upper and Lower Canada, and the requisitions for presents to the Indians in both Provinces, for the ensuing year, it will enable me to make a much more correct estimate than that which I gave you before of the advantages that might arise from granting to the Indians certain sums of money yearly, in lieu of making them annual presents of goods, &c. I could wish, also, to have a copy of the proposed establishment and general requisitions that were sent home by Lord Dorchester, in the fall of the year 1795, which I will return without delay. I think they will be found bound up with His Lordship's despatches for that period. His letters contain a vast deal respecting the abuses in various public departments under his Government, and particularly that connected with the Indians, which he was incessantly endeavouring to correct and prevent.

I hope you will pardon this liberty, and permit me to subscribe myself, with much respect,

Dear Sir,

Your most faithful humble servant,

H. W. RYLAND.

MR. RYLAND TO MR. PEEL.

OXFORD, 1st February, 1812.

DEAR SIR,—On my way to this place I received a letter informing me that you sent a few days since to desire to speak with me, concerning the surplus monies arising from the duties collected under the Gaol Acts of Lower Canada,

and that when my son called in Downing Street, to acquaint you that I was at Bath, you were so good as to say it would be time enough at my return.

I shall leave Oxford on Monday next, and purpose waiting upon you at the office on Tuesday morning. In the meanwhile you will permit me to call to your recollection, that, by a particular clause in the original Act of 1805, the duties collected under it, over and above the specific sums appropriated to the erection of gaols at Quebec and Montreal, are reserved for the future disposal of the Provincial Legislature. This clause, if I remember right, is contrary to the directions contained in one of the articles of the Royal Instructions given to the Governor in Chief on the establishment of the present constitution of Lower Canada, by the Act of the British Parliament, of the 31st of His Majesty. But the Provincial Gaol Act having received His Majesty's sanction, I imagine the clause must stand good. The amount of the duties collected having far exceeded the sums originally voted for defraying the expense of erecting gaols at Quebec and Montreal, an Act was afterwards passed for granting out of the same fund additional sums for the above purpose, and also for building two prisons and two court rooms in the District of Gaspé; and I understand that in the last session of the Provincial Legislature an Act was passed for continuing for a limited time the duties imposed by the Gaol Act, and for appropriating out of them the sum of fifty or sixty thousand pounds towards defraying the expense of erecting appropriate buildings for the meeting of what is therein termed "the Provincial Parliament."

It is within my knowledge that the Legislature has it in contemplation, out of the same fund, to provide for the erection of houses of correction, and other public buildings of a civil nature. Under these circumstances I apprehend there is not a chance that the House of Assembly (whatever might be the disposition of the Legislative Council) could be brought to concur in appropriating any part of those monies to the erection of barracks, as was suggested in your note to me, of Tuesday last.

This subject naturally leads me to remind you of the monies arising from the Jesuits' Estates in Lower Canada, which, during ten or eleven years, have been suffered to

accumulate in the hands of the Treasurer without being appropriated by Government to any purposes whatsoever.

When Government took possession of those estates in the year 1800, Commissioners were appointed by letters patent, under the great seal of the Province, to manage and improve them; and Mr. Hale, one of those Commissioners, was in like manner appointed Treasurer, but he resigned both situations before any monies were paid into his hands, and Sir Robert Milnes, the then Lieutenant Governor, gave the commission of Treasurer to the late Mr. Caldwell, who died in the year 1810. A short time before Sir James Craig returned to England, he issued a commission appointing me to succeed Mr. Caldwell, as Treasurer, and Mr. Hale, who, at the Governor's request, consented to be again appointed one of the Commissioners, undertook, also, to act as Treasurer during my absence from Canada; but I know not what monies have been paid into his hands, not having, as yet, heard from him on the subject. I know, however, that upwards of £9000 were in the hands of the late Treasurer at the time of his decease. Mr. John Caldwell, his only son and heir, being now in England, can inform you of the precise amount; and, being on the spot, the final orders of Government with respect to the disposal thereof may, if it is judged proper, be immediately communicated to him.

Soon after the Jesuits' Estates were taken possession of on the part of the Crown, an address was presented to the Lieutenant Governor by the House of Assembly, praying to have communication of all the documents and papers relating to them, that were in the hands of Government. To this address a very firm and decisive answer was returned by the Lieutenant Governor, in which the House was given clearly to understand that the property belonged solely to His Majesty, and that the Legislative body had no pretensions whatsoever to interfere respecting it, and ever since that period the House of Assembly has been perfectly silent on the subject.

Still, however, a very sanguine hope is entertained throughout the Province, and more particularly by the English part of the community, that a portion, at least, of the revenues arising from those estates will eventually be appropriated to the advancement of learning, and to the

establishment of public schools in Lower Canada ; and I am persuaded that a considerable sensation of regret would be occasioned among all classes by the entire alienation of those funds from the above purposes. I may, nevertheless, venture to offer it as my own individual opinion, that no dissatisfaction of the nature here alluded to would be to be apprehended in appropriating *the monies already collected* to the object mentioned in your note, provided Government thought fit, at the same time, to assure to the public a participation in the future revenues for the promotion of learning, and the establishment of schools, so essential to the general interests and welfare of the Province.

In a letter which I have lately received from the Bishop of Quebec, His Lordship tells me that he had recently delivered in to the Governor a plan for the establishment of a public grammar school, with suitable buildings, at Quebec ; and that the revenues of the Jesuits' Estates were the only fund that could be looked to for the accomplishment of this object. This plan will most probably, be transmitted to Lord Liverpool by the Governor in Chief, and His Lordship will thereby be enabled to form his own opinion on the subject.

I feel confident that the revenues of the Jesuits' Estates may be speedily and *very considerably* augmented, and I think it evident that Government may derive great advantage, in point of power and influence, from keeping this a separate and distinct fund, to be appropriated to such purposes, whether civil or military, as His Majesty may from time to time see fit to direct ; and should the Crown hereafter take into its own management the St. Sulpician Estates also, (to which it has a title equally clear and decided,) the facilities that would thereby be given to the administration of the Civil Government of Lower Canada would, I am humbly of opinion, be augmented to as great an extent as His Majesty's Ministers could desire.

I have insensibly been led to enter into more particulars than I intended when I took up my pen, but I trust you will not deem them undeserving your attention, and that their importance will plead my excuse.

I have the honor to be, Dear Sir,

Your most faithful and obedient servant,
HERMAN W. RYLAND.

MR. RYLAND TO MR. PEEL.

.24th February, 1812.

SIR,—I yesterday had the honor to receive your letter of the 21st instant, enclosing the copy of a letter addressed to you on the 19th instant, by Mr. Harrison, stating “that the Lords Commissioners of the Treasury apprehend, with reference to the requisition for rum and provisions for completing the supply of Indian stores in Upper and Lower Canada, that those articles are purchased on the spot, and therefore conclude that such requisitions are transmitted to the Treasury for information only, and that Their Lordships apprehend the same to be the case with respect to the schedules of the proposed Indian establishments in those Colonies respectively.” Being desired by you to state, for the information of the Earl of Liverpool, whether Their Lordships are correct in their suppositions; and, also, whether any provisions or allowances have been granted out of the military chest in either of the above mentioned Provinces, without previous communication with the Colonial Department, I am under the necessity of observing that I have not by me such official documents as will enable me to give to your inquiries a direct and positive answer.

I should suppose that the requisition for rum and provisions, for the use of the Indians of Upper Canada, which is a very large one, is transmitted home, in order that the provisions, at least, may be purchased here, a sufficient supply probably not being to be procured either in the Colony or from the United States; or, perhaps, because the provisions purchased on the spot are not found to be of so good a quality as those sent from home.

To the best of my recollection it has not been usual to transmit home any particular requisition of rum or provisions for the Indians of Lower Canada, the quantity required annually being very moderate; but those articles have been furnished from time to time from the King's stores, by order of the Officer commanding the Forces, and consequently included in the Commissary's accounts.

With regard to the salaries and pensions granted to officers and others belonging to the Indian establishments in Upper and Lower Canada, I may observe, that by re-

peated orders from the Secretary of State they are directed to be paid from the military chest; but some instructions were issued in the years 1796 and 1801, placing the management of the Indians under the direction of the Lieutenant Governors of those Provinces respectively. No uniform system respecting them has been observed in the *Lower Province*, but the expenses of the department have sometimes been defrayed from the military chest, and sometimes, indeed, in the general expenses of the Civil Government.

I take it for granted that the establishment of the present year, in both the Provinces, will be paid as heretofore, and that the estimates are transmitted home as a matter of form and according to established usage, rather than as requiring special approbation.

I cannot from recollection specify any instances of salaries or pensions being granted to officers or others belonging to the Indian Department in Lower Canada without the same having been previously transmitted for approbation through the office of the Secretary of State.

With respect to the practice in this respect in Upper Canada, I am entirely ignorant.

I have the honor to be,
&c., &c.,

H. W. RYLAND.

P. S.—On reflection it strikes me that the rum and provisions required for the use of the Indians may heretofore have been included in the estimates of the Provincial Commissary General, and that the present requisition may have been sent home separately through mistake.

MR. RYLAND TO MR. PEEL.

POET'S CORNER, 2nd March, 1812.

SIR,—I called at the office last week in the hope of having a few minutes conversation with you, in consequence of Mr. Caldwell's having communicated to me an order from the Lords of the Treasury, directing him to pay into the military chest at Quebec the monies arising from the Jesuits' Estates, which were lodged with him as representative of his late father who held the office of Treasurer.

Had an order to this effect proceeded from the office of the Secretary of State only, it would not have struck me as a subject for observation, but proceeding immediately from the Treasury, I am led to suppose that His Majesty's Ministers have come to a final determination respecting the estates formerly possessed by the Jesuits, which, ever since the conquest of Canada, have been an object of jealousy on the part of the public in that Province; and should it finally be determined that the revenues arising from them are in future to be appropriated entirely to military purposes, I fear a degree of dissatisfaction may be occasioned by this arrangement, which is hardly to be conceived by any person not intimately acquainted with the state of public opinion in Lower Canada, relative to this subject.

In all the communications which the Earl of Liverpool and you have allowed me to make concerning the affairs of that Province, I have had one principal object in view, that of pointing out by what means the power, influence and revenues of the Crown may most effectually be increased, without exciting discontent in the Colony, or infringing, in any degree, on the rights of the subject; and this, indeed, was the chief purpose for which the late Governor, Sir James Craig, sent me to England.

The Jesuits' Estates, having been taken possession of on the part of the Crown, in the year 1800, were long since represented to His Majesty's Government as a means by which great political influence might be acquired; and the gentlemen who have hitherto, as Commissioners, gratuitously undertaken the management of them, were encouraged to exert themselves for the improvement of those estates, by a hope that the revenues would eventually be appropriated to civil purposes, and thus be rendered conducive to the general benefit of the Province.

My object in calling at the office last week was to make this observation to you, in case I had found that my conjecture relative to this subject was correct.

I now write under an uncertainty, and should have declined troubling you in this way, had not the messenger intimated to me, on Saturday, that it was your wish I

should put anything on paper, which I had to communicate, as your occupations did not give you leisure to see me.

I was in hopes that before this time I should have been put in possession of Sir G. Prevost's sentiments with respect to the several points which formed the subject of my correspondence with the Colonial Department, prior to the month of August last, all of which I had fully acquainted him with in two letters, one dated the 4th June and the other the 24th July ; but in a letter to me, dated 7th November, Sir George merely says, "I am informed you have altered your intention of returning to Quebec this year, in consequence of Sir James Craig's arrival in England, from an expectation that, with his support, you will obtain a decision on some of the important subjects referred to Government through you, touching objects of serious consideration in the administration of the Government of Lower Canada. I entirely approve the motive which influenced that determination, and sincerely hope its result will be favorable to the prosperity of this Province."

From the above letter you will judge in how painful and embarrassing a situation I am placed. I fear that a suggestion of mine may have given rise to an arrangement which may eventually prove of detriment to the general interests of the Crown in Lower Canada. I am left without any directions from the present Governor of the Province to guide me, yet measures of serious importance seem to be expected, in consequence of the representations I had been instructed by his predecessor to make on particular subjects relating to the Government of Lower Canada. Thus circumstanced, I trust I may rely on meeting with peculiar indulgence from you, that I may not be considered as committing myself, if I have offered an opinion without being correctly informed of the intentions of Government, and that all the observations which I have presumed to submit, relative to the public affairs of Lower Canada, will be attributed to their true motive, a sincere and earnest desire to promote His Majesty's interests, and the general welfare of the Province.

I have the honor to be,

H. W. RYLAND.

COPY OF A LETTER TO MR. CALDWELL.

TREASURY CHAMBERS, 19th February, 1812.

SIR,—The Lords Commissioners of His Majesty's Treasury, understanding that there is a sum of money in your hands, arising from the Jesuits' Estates in Lower Canada, which has been lodged with you as the representative of the late Mr. Caldwell, who held the office of Treasurer of that Colony, I have received Their Lordships' commands to cause the amount to be paid in to the military chest in Canada, with as little delay as possible; and, in the meantime, I am to desire you will state to My Lords all the particulars with regard to the amount of the said sum, and the period at which it was received.

I am, &c.,
(Signed,) GEORGE HARRISON.

MR. RYLAND TO MR. PEEL.

1, POET'S CORNER, Tuesday, 24th March, 1812.

DEAR SIR,—I fear you will not find the enclosed so correct as you could wish, but I have not documents by me to enable me to be more particular, or to give you a statement for a later period. If you have received the printed Journal of the House of Assembly for the last year, provided it includes the usual accounts, a similiar statement for 1810 may easily be prepared from them.

I had a note last night to inform me that my baggage must be put on board by Saturday next, and I expect to leave town for Portsmouth in the course of the ensuing week.

I flatter myself I shall have the honor of taking a line from Lord Liverpool to Sir George Prevost, more particularly as I have not heard that His Lordship's letter to him respecting me was ever received. This is the only favor I have now to ask.

I have the honor to be,
&c., &c.,

H. W. RYLAND.

Inclosure.

COPY OF QUERIES BY MR. PEEL, AND OF MR. RYLAND'S ANSWERS.

What is the amount of the revenue of Lower Canada, distinguishing that raised by the Local Government from that which is at the disposal of the Crown?

Total amount at this time upwards of £45,000 per annum. At the disposal of the Crown, towards defraying the general expenses of the Civil Government, upwards of £20,000 per annum.

What is the source, from whence derived, and the application of the funds?

1st. Casual and territorial revenue prior to the conquest, viz: Mutation fines (called Droit de Quint and Lots et Ventes) on the sale of real property.

2nd. Rent paid for the King's posts on the Labrador coast, for the Forges of St. Maurice, &c.

3rd. Duties imposed by the Act of the 14 Geo. III., cap. 88, and by subsequent Acts of the Provincial Legislature, which are applicable to the general expenses of the Civil Government, the administration of justice, salaries, pensions, &c., as the King may direct.

The remaining £20,000 and upwards arises from duties imposed by the Provincial Legislature, part of them permanent and part temporary, applied to specific purposes.

The civil establishment is of course paid out of it, and it is presumed out of that part which belongs to the Crown; what is the surplus after it is provided for?

Certainly; but hitherto it has fallen short of the general expenditure, and the deficiency is ordered to be made good from the military chest.

Do the Assembly provide any salary for the civil servants of the Government?

Yes, but not specifically, except for those belonging to the Legislative Council and the House of Assembly, to pay whom particular duties have been imposed.

How is the amount of salary to each servant regulated?

The salary of the officers for whom the Legislature makes special provision, by the Governor. Those of the other servants of the Crown, by orders received through the Colonial Department, with the exception only of some few small salaries or allowances, concerning which it has been customary for the Governors to exercise their own discretion.

ACCOUNT OF THE REVENUE OF LOWER CANADA FOR THE YEAR 1808.

NATURE OF THE REVENUE.	AMOUNT.	TO WHAT PURPOSES APPLIED.
Casual and territorial, including Mutation fines, (i. e. Quints, Lots et Ventes,) Rent paid for the hunting post on the Labrador coast, Forges of St. Maurice, &c.	£ s. d. 1,454 7 11	General expenses of the Civil Government, salaries of public officers, &c.
Duties collected under the Act of 14 Geo. III., cap. 88, on wines and spirits imported, and duty on licences to sell the same in retail.	9,431 10 6	Idem; and more particularly to defray the charges of the administration of Justice.
Duties under the Provincial Act of the 33rd Geo. III., cap. 8.	711 8 4	Payment of the salaries of the officers belonging to the Legislative Council and House of Assembly.
New and additional duties on licences and on certain articles imported, — Provincial Acts, 35 Geo. III., cap. 8 and 9.	16,034 15 0	Five thousand pounds sterling per annum, appropriated to the general expenses of the Civil Government, and the surplus reserved for the future disposal of the Legislature.
Duties on manufactured tobacco and snuff, — Provincial Act, 41 Geo. III., cap. 14.	203 19 0	General expenses of the Civil Government.
Duty on billiard tables, under Provincial Act, 41 Geo. III., cap. 13.	63 0 0	Idem.
Gaol Act, 45 Geo. III., cap. 13.	11,277 0 0	Building gaols, &c.
Pilotage duties.	912 0 0	Improvement of the navigation of the River St. Lawrence, &c.
Duties under the statutes of 6 Geo. II., 4th and 6th Geo. III.	42 0 0	
Fines and forfeitures.	247 0 0	
	£40,376 0 9	

Mem. I should imagine the total amount of the Provincial Revenue, permanent and temporary, for the year 1811, came little short of £50,000.

It is to be observed, that there were no Quints brought to account in the year 1808. They generally run high, being the fifth part of the value of Seigniories sold.

The established salaries and allowances to officers of Government, and others in Lower Canada, may be estimated at nearly £24,000 per annum. Other expenses, including a proportion of duties paid to Upper Canada, at about £20,000.

H. W. R.

MR. RYLAND TO MR. PEEL.

SATURDAY, 11th April, 1812.

DEAR SIR,—Since I was at your office this morning it has occurred to me that Sir James Craig did not particularly mention the Jesuit's Estates in any one of his despatches to the Earl of Liverpool; but the greater part of my papers being on board ship, I have it not in my power correctly to ascertain this point. I happen, however, to have kept by me a copy of the written instructions which Sir James gave me on my departure for England, and I now enclose for your information an extract of what he therein said respecting the Jusuits' Estates. The original document is with my baggage, or I would send it to you.

I have the honor to be, &c.,

H. W. RYLAND.

ABSTRACT OF LETTERS WRITTEN BY MR. RYLAND, DURING HIS STAY IN ENGLAND, TO HIS EXCELLENCY SIR GEORGE PREVOST, BARONET, GOVERNOR IN CHIEF OF THE PROVINCE OF LOWER CANADA &c., &c., &c.

June 4, 1811.—Enclosing copies of the correspondence entered into by Mr. Ryland with the Secretary and Under Secretary of State for the Colonial Department, between 31st July, 1810, and 10th May, 1811, in consequence of his having been sent by Sir James Craig to England on the public affairs of the Province of Lower Canada.

July 24.—Enclosing a copy of the joint Report of the Law officers of the Crown, respecting His Majesty's right to exercise the patronage of the Romish Church, and to take possession of the estates commonly called the Saint Sulpician Estates, in Lower Canada. Also a copy of some observations thereon, submitted by Mr. Ryland to the Under Secretary of State, together with an extract of a letter from Sir James Craig to Mr. Ryland, concerning the ecclesiastical affairs of Lower Canada, and a copy of Bishop Denaud's petition to the King, which was transmitted to the Earl Camden, by Sir Robert Milnes, in the month of July, 1805, and forms the ground on which it was proposed that His Majesty should assume the patronage of the Romish Church.

August 24.—In answer to Sir George Prevost's letter of the 30th July, informing Mr. Ryland that he shall make no change in the appointment of Civil Secretary to the Governor General during his absence, except that Mr. Brenton will execute the duties thereof till he returns to Quebec to take them upon himself.

September 9.—Acknowledging a second letter from Sir George Prevost, of the same tenor and date; at the same time acquainting him that the Canada business still remained undecided, but that Mr. Ryland would hold himself in readiness to obey his orders, and to return to Canada, if he desired it, by the way of the United States.

October 3.—Important advantages in respect of patronage, influence and revenue, which would arise to the Crown were the King's Representative to exercise the right of presentation to Roman Catholic livings in Lower Canada, and were Government to take into its own hands the management of the St. Sulpician Estates, in like manner as already has been done with respect to the estates formerly possessed by the Jesuits in that Province.

Necessity for a determination on the part of Government, with respect to the funds arising from the latter; anxiety of Mr. Ryland to obtain a decision on these and other important matters entrusted to his management, the only motive for his remaining longer in England; readiness to return to Canada during the course of the winter, should the Governor wish him so to do.

December 5.—Communication made to Mr. Ryland by Mr. Peel, of the draft of a despatch to Sir George Prevost, with instructions on the several points relating to Canada affairs, which had latterly been under the consideration of His Majesty's Ministers. Reasons why the whole were suspended.

Impossibility of forwarding the mandamuses for Members of the Legislative Council in time for the opening of the Provincial Legislature. Mr. Ryland's readiness to advance the fees.

January 2, 1812.—In answer to Sir George Prevost's of the 7th November, in which he approves of the motives that had induced Mr. Ryland to prolong his stay in England. Mr. R.'s readiness to advance the monies necessary to discharge the fees on the mandamuses for the additional Members of the Legislative Council. Has engaged his passage in the *Ewretta*, to sail early in the spring.

January 9.—Enclosing a list of the persons appointed to be Members of the Legislative Council, Mr. Ryland's appointment to be of the Council, in consequence of the recommendation of Sir James Craig, as a mark of the Prince Regent's approbation of his services.

His earnest desire in his legislative, as well as in his more private capacity, to promote by every means in his power the Governor's views for the prosperity and happiness of the Province.

February 6.—Particulars of an interview with Mr. Peel, concerning the monies arising from the Canada Gaol Act, and those paid into the hands of the Treasurer for the Jesuits' Estates. Reasons for not proposing to the Provincial Legislature an appropriation of the former towards defraying the expense of building barracks. Mr. Ryland's unwillingness to suggest anything which might not perfectly accord with the wishes of the Governor in Chief. Possibility of greatly augmenting the revenues arising from the Jesuits' Estates; advantages to be obtained by Government in point of power and influence by keeping them as a separate and distinct fund, to be appropriated to such purposes, whether civil or military, as His Majesty might, from time to time, see fit to direct. Similar observations with regard to the St. Sulpician Estates, to which His Ma-

jesty has a title equally clear and valid, and which are of infinitely greater value than those formerly in possession of the Jesuits.

March 4.—Enclosing a letter from Mr. Peel to Mr. Ryland, concerning the Indian requisitions, and a copy of Mr. Ryland's answer; also copy of Mr. Ryland's letter of 3rd March, to Mr. Peel, concerning the disposal of the monies arising from the Jesuits' Estates.

March 4.—Enclosing copy of a letter from Mr. Hale, and of Mr. Ryland's answer, respecting the salary attached to the office of Treasurer for the Jesuits' Estates.

March 6.—Communication made to Mr. Ryland of a letter from Mr. Peel to the Secretary of the Treasury, informing him that, as Lord Liverpool found a very sanguine hope had been entertained in Canada, that the revenues arising from the Jesuits' Estates would eventually be appropriated to the general benefit of the Province, it was not intended to make any appropriation of them till opportunity had been afforded to consult the Governor on the subject; but, nevertheless, that the monies received by the late Treasurer (Mr. Caldwell) should be paid into the military chest.

MR. RYLAND TO SIR GEORGE PRÉVOST, BARONET.

LONDON, 4th June, 1811.

SIR,—Having been honored with a communication of Lord Liverpool's despatch to Your Excellency, by which you are instructed to proceed to Quebec for the purpose of relieving Sir James Craig in the Government of Lower Canada, and having also been assured that His Lordship will do me the honor of mentioning me to you, I hope you will excuse the liberty I now take of addressing you myself.

The reasons which induced Sir James Craig to send me to England will most probably be made known to you by him, should it please God to preserve his valuable life till you arrive at Quebec, or should it prove otherwise, (which I most seriously apprehend,) my friend, Colonel Baynes, will be able to inform you of them. Under all circumstances I think it incumbent upon me to lay before Your

Excellency the correspondence which I have entered into with the Secretary of State for the Colonial Department, since my arrival in England, and I now do myself the honor to enclose copies of the following letters, viz :

(A.) Copy of a letter dated 31st July, 1810, to the Earl of Liverpool.

(B.) Copy of a letter dated 4th August, 1810, to Mr. Peel, stating the Governor in Chief's opinion with respect to the assumption of the patronage of the Romish Church in the Province of Lower Canada.

(C.) Copy of a memorandum delivered to Mr. Secretary Peel, on the 7th August, 1810, with the numbers of the "*Canadien*," for the publishing of which the Editors of that paper were committed to prison.

(D.) Copy of a letter to the same, dated 11th February, 1811, with a recapitulation of the reasons which induced the Governor in Chief to send Mr. Ryland to England.

(E.) Copy of a letter to the same, dated 19th February, enclosing a copy of the Mandement issued by the Rev. Mr. Plessis, and proposing a case for the opinion of the Law officers of the Crown.

(F.) Copy of a letter dated 14th March, 1811, to the Earl of Liverpool, pointing out the advantages to be expected from a final determination on the several points already submitted to His Lordship's consideration, relative to the political state of Lower Canada.

(G.) Copy of a letter to Mr. Peel, dated 22nd April, 1811, relative to the powers exercised by the Roman Catholic Bishop of Quebec.

(H.) Copy of a letter to the same, dated 9th May, 1811, respecting the Jesuits' and St. Sulpician Estates.

(I.) Copy of a letter to the same, dated 10th May, 1811, respecting the completion of the Protestant Church at Montreal.

The above letters will, I flatter myself, give Your Excellency a full and correct idea of the matters relative to the Government of Lower Canada, which are now under the consideration of His Majesty's Ministers. The points of the greatest importance are the St. Sulpician or Seminary Estates at Montreal, and the assumption

of the patronage of the Romish Church. A reference concerning these has been made to the Law officers of the Crown, and I met the Attorney and Advocate General, on the first mentioned subject, on Saturday last; but they have not yet come to a decision. I am led to expect that after their opinions shall be delivered in, the whole will be brought before a Cabinet Council. This state of things prevents me from taking immediate steps for returning to Canada, as it is wished that I should stay here till a final determination can be had on the several points. If the business is got through in time I shall engage a passage in the July convoy, but I am not without apprehension that I may be detained considerably beyond that period, and in this case I shall make it my duty to inform Your Excellency, from time to time, of the progress made in the business; and should you be disposed to honor me with any commands, they may be addressed to me either under cover to Lord Liverpool or Mr. Peel.

I will only add that I am really anxious, on every account, to return as soon as possible to my official duties at Quebec, and that no considerations of a *private* nature will induce me to prolong my stay in this country.

I have the honor to be, &c., &c.,

H. W. RYLAND.

SIR GEORGE PREVOST, BARONET, TO MR. RYLAND.

HALIFAX, NOVA SCOTIA, 30th July, 1811.

SIR,—I am honored with your letter of the 4th June, together with the particulars of a correspondence which has taken place between the Secretary of State and yourself, respecting the affairs of Lower Canada, entrusted to your management by Sir James Craig.

In reply, I have to inform you that the situation of Civil Secretary to the Governor General will undergo no alteration until you return to Quebec to resume the duties thereof, except that Mr. Brenton, the Deputy Judge Advocate of British America, will execute them during your absence.

I have the honor to be, Sir,

Your most obedient humble servant,
GEORGE PREVOST.

MR. RYLAND TO SIR GEORGE PREVOST, BARONET.

LONDON, 24th July, 1811.

SIR,—Since I had the honor of writing to you on the 4th of June, the Law officers of the Crown have delivered in their Report on the points that were referred to them by Lord Liverpool, respecting the St. Sulpician Estates, and the right of His Majesty to exercise the patronage of the Romish Church in the Province of Lower Canada. That Report having been communicated to me by Mr. Peel, I now take the liberty of enclosing a copy for Your Excellency's information, together with a copy of some observations which I submitted to the Under Secretary of State, in consequence of his communication. To these I shall add the extract of a letter dated 4th June, which I have since received from Sir James Craig, and a copy of the late Bishop Denaud's petition to the King, which was transmitted to Lord Camden, by Sir Robert Milnes, in the month of July, 1805, and is referred to in my letter to Mr. Secretary Peel, of the 4th August, 1810, as the *foundation* of the measures recommended by the Governor in Chief, with respect to the assumption of the patronage of the Romish Church.

It is much to be lamented that, on the death of the Rev. Monsieur Denaut, Mr. Dunn, who was then in the administration of the Government of Lower Canada, did not avail himself of the opportunity to decline nominating a successor to that Bishop, until His Majesty's pleasure, respecting the appointment, should be declared. Had this line of conduct been adopted, I feel confident that Monsieur Plessis would readily have accepted the situation under any restrictions and regulations that His Majesty might have thought fit to prescribe; for, although there are few men more ambitious of power, or more effectually zealous in the exercise of their religious functions than this ecclesiastic, I have no idea that either his zeal or his ambition would induce him to make a resistance to the firm exercise of the Royal Prerogative, under the conviction, which he must have, that he is totally destitute of all *legal* authority as Bishop of Quebec.

I trust Your Excellency will excuse the freedom of my present communication, and permit me to assure you,

that I have no other motive for laying before you these particulars, than a desire to enable Your Excellency to form a judgment of the character of the person who is at the head of the Romish Church in Lower Canada, and of the measures which it is in the contemplation of His Majesty's Government to adopt for the future regulation of ecclesiastical affairs in that Province.

I have the honor to be,

&c., &c.

H. W. RYLAND.

Inclosure D.

A la très excellente Majesté du Roi.

L'humble requête de Pierre Denaut, Evêque de l'Eglise Catholique Romaine,

Lequel prend la liberté de s'approcher du trône de Votre Majesté pour lui remontrer très respectueusement :

Que la religion Catholique Romaine ayant été introduite en Canada avec ses premiers colonies sous l'ancien gouvernement de France, l'évêché de Québec fut érigé en mil six cent soixante-quatre, et a été successivement rempli par des évêques dont le sixième est mort en mil sept cent soixante, époque de la conquête de ce pays par les armes de Votre Majesté.

Que depuis cette date, les catholiques, qui forment plus des dix-neuf-vingtièmes de la population de votre Province du Bas-Canada ont continué par la bonté de Votre Majesté d'avoir des évêques, lesquels après serment d'allégeance, prêté entre les mains du représentant de Votre Majesté en cette province, en conseil, ont toujours exercé leurs fonctions avec la permission de Votre Majesté, et sous la protection des différens gouverneurs qu'il a plu à Votre Majesté d'établir pour l'administration de cette province, et que votre suppliant est le quatrième évêque qui conduit cette église depuis que le Canada est heureusement passé à la couronne de la Grande Bretagne.

Que l'extension prodigieuse de cette province et l'accroissement rapide de sa population exigent plus que jamais que l'évêque catholique soit revêtu de tels droits et dignités que Votre Majesté trouvera convenables pour conduire

et contenir le clergé et le peuple, et pour imprimer plus fortement dans les esprits ces principes d'attachement et de loyauté envers leur souverain, et d'obéissance aux lois dont les évêques de ce pays ont constamment et hautement fait profession.

Que cependant, ni votre suppliant, qui conduit depuis huit ans cette église, ni ses prédécesseurs, depuis la conquête, NI LES CURÉS DE PAROISSES n'ont eu de la part de Votre Majesté cette *autorisation spéciale* dont ils ont souvent senti le besoin, pour prévenir les doutes qui pourraient s'élever *dans les cours de justice*, touchant l'exercice de leurs fonctions civiles.

Ce considéré, qu'il plaise à Votre Majesté de permettre que votre suppliant approche de Votre Majesté, et la prie très humblement de donner tels ordres et instructions que dans sa sagesse royale elle estimera nécessaires pour que votre suppliant et ses successeurs soient civilement reconnus comme évêques de l'Eglise Catholique Romaine de Québec, et jouissent de telles prérogatives, droits et émoluments temporels que Votre Majesté voudra gracieusement attacher à cette dignité.

Pour plus amples détails, votre suppliant prie Votre Majesté de s'en rapporter aux informations que son excellence Sir Robert Shore Milnes, Baronet, le Lieutenant Gouverneur de Votre Majesté en cette province, veut bien se charger de donner à Votre Majesté.

Et votre suppliant continuera d'adresser au ciel les vœux les plus ardents pour la prospérité de Votre très gracieuse Majesté, de son auguste famille et de son empire.

(Signé,) + PIERRE DENAUT,
Evêque de l'Eglise Catholique Romaine.

Quebec, 18 Juillet, 1805.

SIR GEORGE PREVOST, BARONET, TO MR. RYLAND.

QUEBEC, 7th November, 1811.

. DEAR SIR,—I am informed you have altered your intention of returning to Quebec this year, in consequence of Sir James Craig's arrival in England, from an expectation that with his support you will obtain a decision on some of the important subjects referred to Government

through you, touching objects of serious consideration in the administration of the Government of Lower Canada. I entirely approve the motive which influenced that determination, and sincerely hope its result will be favorable to the prosperity of this Province.

By my desire, Mr. Brenton will communicate to you, by this opportunity, the names of the persons I have deemed it expedient to lay at the foot of the Throne, to be raised to the Legislative Council of this Province, to enable me to form in that branch of the Legislature a counterpoise to the House of Assembly, thereby transferring to the Legislative Council the political altercations which have hitherto been carried on by the Governor, in person, and which, in some degree, might have been spared him by a well composed *Upper House*, possessed of the consideration of the country, from a majority of its members being independent of the Government.

As I am very desirous the services of the gentlemen recommended for the Legislative Council should be in operation as soon as possible, you will have the goodness to do whatever is necessary towards obtaining their respective mandamuses, and afterwards forward them to Quebec by that conveyance which shall be considered by you the most expeditious.

The Executive Council also requires revision. The descriptive state of its composition, transmitted by this opportunity to the Earl of Liverpool, will show the necessity of strengthening it to the extent I have proposed. Mr. Percival's name is on the list of persons recommended for Executive Councillors; but as he is a Government Officer, without weight in the community, I only placed it there from an intimation to that effect having been expressed by the First Lord of the Treasury.

In the short time I have been in this Province, I have visited it in a way to enable me to form a correct judgment of the genius and disposition of the Canadians. Traveling without pomp, I had frequent opportunities of seeing the inhabitant in his true character. I found the country in the hands of the priests, and at Quebec that *prelatical pride* was not confined to the Catholic Bishop.

I am in daily expectation of the arrival of the Halifax Courier, with the August letters, containing the Law officers' opinion on the *assumption* of the patronage of the Romish Church in this Province, and I make no doubt that opinion will be both guarded and moderate; and that an *amicable arrangement* will be preferred to an enforcement of right. Such is the general temper of our country, therefore I feel most anxious to avoid all PROCESS OF LAW.

It having been represented to me that Sir James Craig had taken with him a letter from the Secretary of State, containing an authority to complete and enclose the Cathedral of the Established Church at Quebec, I have to request you will obtain and transmit to me a certified copy thereof, to enable me to direct that essential service to be performed as soon as the season will allow of it, in conformity with the earnest solicitation on the subject, made by the Lord Bishop.

I have the honor to be,

Dear Sir,

Your most obedient humble servant,
GEORGE PREVOST.

MR. RYLAND TO SIR GEORGE PREVOST, BARONET.

LONDON, 24th August, 1811.

SIR,—I was yesterday honored with Your Excellency's letter of the 30th July, for which I beg leave to return you my best thanks, and at the same time to assure you that I feel, in the most sensible manner, the kindness and liberality of your determination with regard to the appointment of Governor's Secretary.

I must confess that I was much embarrassed by the peculiar circumstances in which I found myself when I first took the liberty of writing to you. I considered it as incumbent on me to apprise you of the purposes for which Sir James Craig had sent me to England, and of the progress made in the object of my mission. At the same time I was aware of the slight pretensions which, as a perfect stranger, I could have to a situation under you of such peculiar confidence as that of your Civil Secretary, and on

this account I thought it a matter of delicacy not to solicit the appointment (though I am justly sensible of the honor conferred by it,) and I gave My Lord Liverpool to understand as much, when he had the goodness to acquaint me that he should take an occasion of mentioning me to Your Excellency.

Under these circumstances, I cannot be but highly flattered by your informing me that you shall make no change in the appointment of Civil Secretary to the Governor in Chief during my absence, except that Mr. Brenton will execute the duties thereof till I return to Quebec to take them upon myself.

I am sorry to inform Your Excellency, that the matters mentioned in my last letter (of the 24th July) are not yet finally determined upon. Lord Liverpool has, for some time past, had all the papers relative to the points reported on by the Law officers of the Crown in his own immediate possession, and I have reason to think that the delay in bringing them before a Cabinet Council arises solely from the peculiar situation in which the Ministry are placed by the vacillating state of His Majesty's health, and their consequent unwillingness to bring forward matters of this nature, whilst a probability perhaps exists of important changes in the public departments.

I flatter myself you will receive with indulgence any observations that I may, from time to time, take the liberty of making, on subjects of this nature, which I should not presume to touch upon but from a desire of communicating intelligence in which you may take an interest, and if, during the remainder of my stay in England, I can, in any way, render my services acceptable to Your Excellency, it will, I assure you, give me inexpressible satisfaction.

I have the honor to be,

Sir,

Your Excellency's most faithful and

Obliged humble servant,

H. W. RYLAND.

(*Second letter called "Duplicate," but essentially differing from the first. See page 277.*)

SIR GEORGE PREVOST, BARONET, TO MR. RYLAND.

HALIFAX, NOVA SCOTIA, 30th July, 1811.

SIR,—I am honored with your letter of the 4th June, together with the particulars of a correspondence which has taken place between the Secretary of State and yourself, respecting those affairs of Lower Canada entrusted to your management by Sir James Craig. In reply to part of it relating to the situation of Civil Secretary to the Governor General, I have to assure you that no change in that office is at present meditated, except that Mr. Brenton, the Deputy Judge Advocate of British America, will exercise the duties thereof until you return to Quebec.

I have the honor to be, Sir

Your most obedient humble servant,
GEORGE PREVOST.

MR. RYLAND TO SIR GEORGE PREVOST, BARONET.

1, POET'S CORNER,

WESTMINSTER, 9th September, 1811.

SIR,—Since writing the within (letter of 24th August) I have been honored with Your Excellency's second letter of the 30th July. I had prepared a duplicate of mine of the 4th June, with its inclosures, to go by the present opportunity, which it is not necessary I should now trouble you with.

The Canada business still remains as it was, and I shall not fail to acquaint Your Excellency whenever anything further is done towards bringing it to a conclusion; but should much further delays take place, and should you not wish me to wait the event, I shall, upon receiving your orders, take immediate steps for returning to Canada by the way of Boston or New York, unless the Secretary of State should lay his commands upon me to the contrary; and, in all events, I shall not delay my departure beyond the sailing of the first fleet in the ensuing spring.

I have the honor to be,

&c., &c.,

H. W. RYLAND.

MR. RYLAND TO SIR GEORGE PREVOST, BARONET.

1, POET'S CORNER,
WESTMINSTER, 3rd October, 1811.

SIR,—Although I have not the satisfaction of being able to inform Your Excellency whether anything further has been concluded on respecting Canada affairs, I am unwilling to neglect the opportunity of writing to you by the present mail, more especially as I hope that before this time you will have arrived at the Seat of the General Government, and have been enabled to form on the spot your own judgment of the several points which form the subject of the correspondence I have had the honor of submitting to you.

I cannot but think that Your Excellency will be struck with the important advantages, in respect of patronage and influence, which would arise to the Crown were the King's Representative to exercise the right of presentation to vacant Roman Catholic livings in Lower Canada, and were Government to take into its own hands the management and revenues of the St. Sulpician Estates in like manner as already has been done with respect to the estates formerly possessed by the Jesuits in that Province.

A clear and decisive opinion having at length been obtained from the Law servants of the Crown here, coinciding in every particular with those previously transmitted from Lower Canada by Lieutenant Governor Milnes and Sir James Craig, relative to these points, it is hardly to be supposed that the whole will now be suffered to fall to the ground, at a time, too, when the Executive power is peculiarly in want of all possible support.

Those of the King's Ministers with whom I have had opportunity of conversing on the measures proposed, seem fully sensible of their importance, and do not hesitate to express an earnest wish that they were carried into execution, yet still I observe a backwardness in coming to a conclusion, which I cannot satisfactorily account for.

Your Excellency will now be enabled to inform yourself whether any opposition is to be apprehended on the part either of the Rev. Mr. Plessis or of the French priests at Montreal to the orders of Government, qualified as

proposed in my letters to Mr. Peel, of the 4th August, 1810, and 11th July, 1811; and should you eventually see reason to recommend the measures, I doubt not but your recommendation will be decisive with the King's Ministers, and that final orders will immediately be given on the subject.

I fully expected that Sir James Craig, on his arrival in England, would have renewed the representations he had previously instructed me to make, of the necessity for strengthening the Executive power in Lower Canada, but I am sorry to say the state of his health was such as to render him unequal to it.

Your Excellency will observe that no determination has yet been had respecting the monies arising from the Jesuits' Estates, though this certainly is a matter that carries with it no difficulty, the Crown having been upwards of eleven years in undisturbed possession of the property; and it only remains for Government to say to what purposes the revenues of those estates shall be applied.

Having been sent home for the special purpose of soliciting a final determination on these matters, and having been honored by the Secretary of State with an attention I had hardly presumed to expect, I cannot but feel great anxiety to see the business brought to a close before I return, and I beg leave once more to assure Your Excellency, that I have no other motive for prolonging my stay in this country than a hope that I may yet be able to forward, in some degree, an object of so much importance.

I think it proper to mention that, owing to Lord Liverpool and Mr. Peel being out of town, I have not had an opportunity of seeing either of them for some time past; but I have taken occasion to inform His Lordship, that I shall hold myself in readiness to return to Canada by the way of the United States, in case you desire me to do so, in the course of the winter, or otherwise that I shall not fail to secure a passage in the first fleet that sails for Quebec the ensuing spring.

I have the honor to be,

&c., &c.,

H. W. RYLAND.

MR. RYLAND TO SIR GEORGE PREVOST, BT.

1, POET'S CORNER, WESTMINSTER,

Thursday, 5th December, 1811.

SIR,—I yesterday met Mr. Peel by appointment on Canada affairs, when he put into my hands the draft of a despatch from Lord Liverpool to Your Excellency, respecting those points which have latterly been so fully investigated by His Majesty's Ministers;—I mean the questions relative to the right of the Crown to the St. Sulpician Estates, and to the patronage of the Romish Church in the Province of Lower Canada. The despatch went very minutely into the subject, pointing out the favor and indulgence intended to be granted to the Roman Catholic Bishop, to the Parochial Clergy, and to the persons now in the possession of the Seminary Estates at Montreal, finally authorizing you to exercise the rights of the Crown, with regard to the whole, in such way and manner, and at such time, as you should think most advisable. In short, it appeared to me, that nothing could be more liberal and judicious than these instructions were, and the whole management being left to your discretion on the spot, there was no danger of the dignity of the Crown being compromised, or the feelings of the parties concerned being hurt by a hasty or injudicious exercise of the power thus placed in your hands; it is therefore with infinite regret I inform Your Excellency, that upon Lord Liverpool's communicating the draft to the Lord Chancellor, *scruples were suggested by the latter, which have for the present put a stop to the business.* I am not without hope, however, that the next despatches from you may put the Secretary of State in possession of your sentiments with regard to the points under discussion, provided you have had time to give your attention to the papers which accompanied my letter to Your Excellency, of the 24th July; and if so, the consideration of them may be resumed before the meeting of Parliament; at least, I am unwilling, very unwilling, to believe that a patronage of so important and influential a nature as that of the appointment to Catholic Church livings in Lower Canada, and a property of such

great consequence and value as that of the Seminary Estates, will be relinquished by the Crown without much more solid reasons than any that have yet been adduced for leaving these matters still undecided. Mr. Peel did not mention any particular objections on the part of the Chancellor, but only said that he had *doubts* which made Lord Liverpool hesitate to put his signature to the despatch; and though the matter still remains in suspense, I think it may be satisfactory to Your Excellency to have this account of its present state.

I yesterday received Mr. Brenton's *duplicate* letter of the 22nd October, and I shall not fail to attend to your wishes respecting the mandamus. Mr. Peel said Lord Liverpool would have no objection to the gentlemen whom you have recommended, but I fear it is not possible that the mandamus should be forwarded in time to reach you by the opening of the Provincial Legislature, even if you were to postpone it till towards the end of February. I shall most cheerfully advance the fees as Your Excellency desires.

I am just this moment informed that the mail at the Secretary of State's office is about to be made up, which obliges me to conclude very abruptly; and will prevent me from writing by this opportunity either to Col. Baynes or Mr. Brenton, as I intended. I have received the Colonel's very kind letter of the 10th October, and shall take the liberty of enclosing for him the two or three last papers.

I have the honor to be,
&c., &c., &c.,

H. W. RYLAND.

P. S.—I have written to Your Excellency by every packet since June, and shall continue to do so till I embark.

MR. RYLAND TO SIR GEORGE PREVOST, BARONET.

1, POET'S CORNER,

WESTMINSTER, 2nd January, 1812.

SIR,—I have the honor to acknowledge the receipt of Your Excellency's letter of the 7th November, and agreeably to your directions I have used my best endeavours to

forward the mandamus. Those for the Legislative Council were some time since sent to the Prince Regent for his signature; but Mr. Chapman, the Head Clerk, to whom this branch particularly belongs, informs me that His Royal Highness has not yet been able to sign them. I understand, from another quarter, that this inability has been occasioned by a nervous affection of the hand and arm, brought on by constantly leaning on his elbow, during the Prince's long confinement in bed, after the sprain in his ankle.

The other mandamuses have yet to be laid before the Privy Council, previous to their being submitted to the Prince Regent, and consequently they cannot be forwarded to Your Excellency by the present mail.

The fees on the first mentioned mandamus will be about ninety guineas, for which I have made myself responsible. Those for the Executive Council, Mr. Chapman gives me to understand, will be more*; and I am apprehensive my means will fall short, and shall, therefore, request Mr. Caldwell's assistance on the occasion. Sir James Craig informs me that he never received a letter from the Secretary of State, relative to the proposed inclosure round the Cathedral Church at Quebec; nor do I recollect any particular authority for completing that inclosure ever having been received from home. Colonel Robe was employed by Sir Robert Milnes to make an estimate of the expenses, a copy of which will, I think, be found in the Secretary's office. If Mr. Brenton looks among the rough drafts of Sir Robert Milnes' letters he will find that, in No. 51, dated 25th May, 1803, some estimates were sent home, amongst which the above mentioned probably was one; but I have not documents by me to ascertain the matter correctly. I shall enclose the only memorandum I have of the despatches relative to the Metropolitan Church, copies of which are entered in the office books.

I have lately been desired by Sir James Craig to take steps for rectifying a mistake which has been made with regard to the monies voted for completing the Protestant

* Not correct. They are but a guinea and a-half each.

Church at Montreal, but I have not yet been able to get a sight of Mr. Arbuthnot on the subject.

I have the honor to be, etc.,

H. W. RYLAND.

P. S.—I have engaged my passage in the *Ewretta*, which, I hope, will sail early in the month of April.

MR. RYLAND TO SIR GEORGE PREVOST, BARONET.

1, POET'S CORNER,
WESTMINSTER, 9th January, 1812.

SIR,—As I have no additional information to give Your Excellency, with respect to the matters I have already had the honor of writing to you about, I shall confine my present communication to the subject of the Mandamuses, which have recently been prepared for augmenting the number of Legislative Councillors in the Province of Lower Canada.

I enclose a list of the whole, specifying the dates of the Mandamuses, which Your Excellency will observe have been so arranged as to prevent any difficulty with respect to precedence.

His Royal Highness the Prince Regent having graciously been pleased to take this occasion of placing me in the Legislative Council, it is incumbent on me to inform Your Excellency, that soon after Sir James Craig arrived in England he acquainted me that it was his intention to solicit that mark of the Royal favor for me, as a last public testimony of his approbation of my services; and His Royal Highness' assent has since been obtained, through the Earl of Liverpool, in a manner highly flattering both to Sir James and myself.

I will only add, that, in a Legislative as well as in a more private capacity, it will ever be my earnest desire to deserve Your Excellency's approbation, and to promote, to the utmost of my power, your views for the prosperity and happiness of the Province over which you preside.

I have the honor to be,

&c., &c., &c.,

H. W. RYLAND.

P. S.—The Mandamuses for the Honorary Members of the Executive Council have not yet obtained the sanction of the Board of Privy Council; even those for the Legislative Council, although they were signed some days since, have not yet been stamped, so that they cannot be forwarded before the February mail, and I apprehend they will not reach Canada before the session of the Provincial Legislature is closed. I am to have attested copies of the whole, which I shall bring with me.

H. W. R.

MR. RYLAND TO SIR GEORGE PREVOST, BARONET.

POET'S CORNER, 6th February, 1812.

SIR,—I yesterday had an interview with Mr. Peel, by his desire, on the subject of the surplus monies arising from the Lower Canada Gaol Act of the year 1805, and also concerning the revenues which have been paid into the hands of the Treasurer for the Jesuits' Estates, since they were taken possession of on the part of the Crown.

With regard to the first mentioned subject, I was rather surprised to find that an Order in Council had recently been made by the Prince Regent, directing the Secretary of State to instruct Your Excellency to take the necessary steps for obtaining an Act of the Provincial Legislature to appropriate the surplus monies above mentioned; and that His Majesty's Ministers entertained an idea that they might be applied to defray the expense of erecting barracks in Lower Canada. I took occasion, therefore, to remind Mr. Peel, that, by a particular clause in the original Act of 1805, the duties collected under it, over and above the specific sums appropriated to the erection of gaols at Quebec and Montreal, are reserved for the future disposal of the Provincial Legislature; and that this clause, although not strictly conformable to the directions contained in the Royal Instructions, had received the sanction of His Majesty's assent, and consequently must stand good.

That the amount of the duties collected having greatly exceeded the sums originally voted for defraying the expense of erecting gaols at Quebec and Montreal, an Act was afterwards passed for granting out of the same fund

additional sums for the above purpose, and also for building two prisons and two Court rooms in the District of Gaspé. I further mentioned my having been informed by Sir James Craig, that in the last session of the Legislature an Act was passed for continuing, during a limited time, the duties imposed by the Gaol Act, and for appropriating out of them fifty or sixty thousand pounds towards defraying the expense of erecting appropriate buildings for the meeting of what is therein termed "the Provincial Parliament."

I further observed it was within my knowledge that the Legislature had it in contemplation, out of the same fund, to provide for the erection of houses of correction, and other public buildings of a civil nature, and that, under such circumstances, I apprehended there was not a chance (whatever might be the disposition of the Legislative Council) that the Assembly could be brought to concur in appropriating any part of those monies to the erection of barracks, as had been suggested, and consequently that the proposing such a matter to the Legislative body might tend to compromise the dignity of Government.

On looking over the documents in his office, Mr. Peel found the copy of an Act, passed in the last session, empowering the Governor to appropriate the sum of ten thousand pounds towards defraying the expense of erecting a common gaol at Three Rivers; but Mr. Peel told me that neither the exemplifications under the great seal, nor the printed copies of the Acts passed last year, had yet come to his hands.

I felt more embarrassment in offering an opinion with respect to the disposal of the monies arising from the Jesuits' Estates, owing to my not being in possession of Your Excellency's sentiments on the subject, and I should be sorry indeed to suggest anything which might not perfectly accord with your wishes; observing, however, how solicitous the Secretary of State is to avoid an application to Parliament for the funds requisite to defray the expense of erecting the intended barracks in Lower Canada, I informed Mr. Peel, that soon after the Jesuits' Estates had been taken possession of on the part of the Crown, an

address was presented to the Lieut. Governor by the Assembly, praying to have communication of all the documents and papers relating to them, that were in the hands of Government; to which address a very firm and decisive answer was returned by the Lieut. Governor, giving the House clearly to understand that the property belonged solely to His Majesty, and that the Legislative body had no pretensions whatsoever to interfere respecting it, and that since the above period the Assembly had been perfectly silent on the subject. At the same time, I remarked that a very sanguine hope was still entertained throughout the Province, and more particularly by the English part of the community, that a portion, at least, of the revenues arising from those estates will eventually be appropriated to the advancement of learning, and to the establishment of public schools in Lower Canada, and that nothing would cause so general and so deep a sensation among all classes of people as the entire alienation of those funds from the above purposes; I ventured, nevertheless, to give it as my own individual opinion, that no dissatisfaction of the nature here alluded to would be to be apprehended in appropriating *the monies already collected* to the object mentioned by Mr. Peel, provided Government thought fit at the same time to assure to the public a participation in the *future revenues* of the Jesuits' Estates for the promotion of learning, and the establishment of public schools, so essential to the general interests and welfare of the Province.

I added, also, that I felt confident the revenues of the Jesuits' Estates might be speedily and *very considerably* augmented, and that I thought it evident Government might derive great advantage, in point of power and influence, from keeping this as a separate and distinct fund, to be appropriated to such purposes, whether civil or military, as His Majesty might from time to time see fit to direct; and that, should the Crown hereafter take into its own management the St. Sulpician Estates, to which it has a title equally clear and decided, the facilities that would thereby be given to the administration of the Civil Government of Lower Canada would, in my humble opinion, be augmented to as great an extent as His Majesty's Ministers could desire.

I have thought it proper to give Your Excellency these particulars, that you may be fully informed of all that has passed on the subject, and I flatter myself you will do me the justice to believe that if I were acquainted with Your Excellency's sentiments and views respecting these or any other matters relating to the Government of Lower Canada, I should consider it my paramount duty, on all occasions, to support them to the utmost of my power.

I have the honor to be, &c.,

H. W. RYLAND.

MR. RYLAND TO SIR GEORGE PREVOST, BARONET.

LONDON, *4th March*, 1812.

SIR,—I think it proper to enclose to Your Excellency a letter which I lately received from Mr. Peel, together with a copy of my answer, relative to the annual requisition of rum and provisions, and to the proposed establishment for the Indian Department in Upper and Lower Canada.

From the many opportunities Mr. Peel has taken of conversing with me concerning Indian affairs, it appears to me that Government is disposed to revise the whole system established for the management of them, and that the present inquiries are merely a prelude to a future investigation of the subject.

If nothing further was in view than to obtain correct information with regard to the particulars mentioned in the letter from the Secretary to the Treasury, I should suppose that, by referring to the official records of former years, every point therein mentioned might be correctly ascertained.

I availed myself of this occasion just to hint at the inconveniences that have arisen from breaking up the system established during the command of Lord Dorchester, when the whole Indian Department was considered as purely military, and subject to the immediate control and direction of the Officer commanding the Forces in the two Provinces.

In continuation of the subject mentioned in my last letter to Your Excellency, I now do myself the honor to enclose the copy of one which I have lately taken

occasion to write to Mr. Peel, concerning the monies arising from the Jesuits' Estates.

In the correspondence already transmitted to Your Excellency, I have entered so fully into this and other matters which I had been instructed to press upon the attention of His Majesty's Ministers, that it would be troubling you unnecessarily were I to renew them on the present occasion. I trust the motives for all which I have taken upon myself in this correspondence will appear to Your Excellency such as I have stated them to be, and such as I can truly say they are; and, in this case, though my judgment should appear to you to be erroneous, I am persuaded my intentions will meet your approbation.

I shall reserve many things for personal communication, of which I flatter myself I shall have an opportunity almost as soon as this letter can reach your hands. It would have afforded me infinite satisfaction to have been put in possession, before I left England, of Your Excellency's sentiments upon the several subjects I have written to you about, as I might thereby have been enabled to promote your views, and to have corrected my own opinions, which I should never for a moment think of offering to His Majesty's Ministers in opposition to any measures which Your Excellency might judge it proper to propose.

I have the honor to be, &c.,

H. W. RYLAND.

MR. RYLAND TO SIR GEORGE PREVOST, BARONET.

LONDON, *6th March*, 1812.

SIR,—Since I closed my last letter to Your Excellency, Mr. Peel has communicated to me one which he has written to Mr. Harrison of the Treasury, informing him that as Lord Liverpool finds a very sanguine hope has been entertained in Lower Canada, that the revenues arising from the Jesuits' Estates would eventually be appropriated to the general benefit of the Province, it is not intended to make any appropriation of them till opportunity has been afforded to consult Your Excellency on the subject; that His Lordship, nevertheless, thinks it proper that Mr. Caldwell should be called upon for an account

of the sums received by his father, and that he should be directed to pay them into the military chest.

This arrangement has relieved me from great uneasiness, and as it will afford Your Excellency leisure for maturely considering the subject before your opinion upon it is given, I trust it will meet with your entire approbation.

I was apprehensive till lately of a change in the Colonial Department, but I now look forward with confidence to the Earl of Liverpool's remaining at the head of it, and I should hope that a final settlement of those points relative to Lower Canada, which have latterly been under discussion, will thereby be greatly facilitated.

I have the honor to be, &c.,

H. W. RYLAND.

EXTRACT OF A LETTER FROM MR. RYLAND TO THE
EARL SPENSER, K. G.

BEAUPORT, NEAR QUEBEC, 14th August, 1812.

Poor Sir James did not then know who his successor would be. He little imagined it would be an officer who had a particular resentment against *him*, and that, before his arrival in the Province, it would be openly mentioned that he intended to remove from office those who had been in the confidence of his predecessor!

Before I lay down my pen, I must beg leave to say a few words to Your Lordship, concerning a matter which made some noise in England soon after I left it,—I mean the correspondence, in which I was implicated, that was laid by Mr. Madison before the Congress of the United States. I lament that I had not the opportunity which Mr. Whitbread seems to have been disposed to afford me of declaring before Parliament the limited intentions of Sir James Craig in the mission given to Henry, which amounted to no more than to ascertain the real bias of the public mind in the neighboring States—an object which, I must think, was in itself wise and justifiable, although the agent employed eventually proved to be undeserving of confidence.

The present Sir George Beckwith, when Aid-de-Camp to Lord Dorchester, in the year 1786 or 7, was sent by His

Lordship on a similar mission to that country, as may be seen on referring to the records in the office of the Secretary of State for this department.

I will only add that Henry's papers have been given to the public in a very garbled and incorrect state; that several letters from himself and from me have been suppressed, which would have shewn the extent of the reward held out to him, and of the value placed on his services by Sir James Craig, who never for a moment gave him reason to expect more than that he would avail himself of any fair occasion to place him in some public employment under this Government.

I am quite ashamed of having continued my letter to such a length, and therefore shall abruptly conclude. My mind has been much relieved in writing it, and I will indulge the hope that Your Lordship will continue to honor me with your countenance and good opinion so long as I feel conscious of having merited them by a faithful and upright discharge of the duties imposed on me by my station in life.

I have the honor to be, with the utmost respect,

H. W. RYLAND.

P. S.—As it may not be uninteresting to Your Lordship to know something of the nature and management of the Jesuits' Estates in this country, I shall take the liberty of enclosing two memorandums respecting them, which will convey a very correct idea of the subject.

The Estates are estimated to comprise upwards of eight hundred and ninety thousand acres of land, the greater part of which is still unconceded.

H. W. R.

MR. RYLAND TO THE EARL OF LIVERPOOL

BEAUFORT, NEAR QUEBEC, 19th August, 1812.

MY LORD,—Having been honored by Your Lordship with so flattering a recommendation to the Governor of this Province as that contained in your letter of the 12th July, 1811, to Sir George Prevost, who previous to his

reception of that letter had written to acquaint me "that he should make no change in the appointment of Civil Secretary to the Governor General till I returned to Quebec to take upon me the duties thereof," I think it but justice to myself to inform Your Lordship, that, from the moment of my arrival here, that department was put on a totally different footing from what it had ever been since. I was put at the head of it by Lord Dorchester in the year 1793. I must further add, that the change has been such as to take from my situation the respectability hitherto attached to it, diminishing at the same time, very essentially my advantages in a pecuniary point of view, and tending to impress the public with a belief, either that Sir George Prevost considers me as undeserving his confidence, or that my services have been obtruded upon him contrary to his inclination. Under such circumstances I feel that I cannot long continue to hold the appointment. Deference to the honor done me by Your Lordship's recommendation renders it necessary that whenever I do resign the situation of Secretary to the Governor of this Province, I should be able to prove that I was willing to serve in that capacity as long as I could do so, without being degraded in my own as well as in the public estimation.

In saying thus much to Your Lordship I do not mean to offer any complaint against Sir George Prevost, who certainly is at liberty to give his confidence to whomsoever he pleases, but merely to justify myself to Your Lordship, whose good opinion I cannot but be anxious to preserve, as well as that fair character which I flatter myself I have established by nineteen years service in the most confidential and laborious employment under this Government.

I trust Your Lordship will pardon me if I avail myself of this opportunity to say a few words on a subject which, it seems, attracted much public attention soon after I left England. I refer to the correspondence in which I was implicated that was laid by Mr. Madison before the Congress of the United States. I lament that I had not the opportunity which Mr. Whitbread seems to have been disposed to afford me, of declaring before Parliament the limited intentions of Sir James Craig in the mission given

to Henry, which amounted to no more than to ascertain the real bias of the public mind in the neighbouring States. I have letters from Henry, and copies of some from me to him, which it would not have answered his purpose to publish, because they shew the extent of the reward held out to him, and of the value placed on his services by Sir James Craig, who never for a moment gave him reason to expect more than that he would avail himself of any fair occasion to place him in some public employment under this Government. Your Lordship will allow me here to mention one circumstance relative to Sir James Craig, very well known to every gentleman who has served immediately under him, which is, that he never put his name to any letter or paper of importance which was not drawn up entirely by himself. Of this description were the instructions given to Henry, of which I have not a copy, and therefore cannot say whether that given to the public is correct or not, but I can take upon me confidently to assert what I have above mentioned, with regard to the nature and extent of them.

I exceedingly lament that the agent made choice of by Sir James proved so utterly undeserving of confidence, and that so much trouble has been occasioned to Your Lordship by a measure which originated in the purest desire to promote the national interests.

I was very sorry on my arrival here to find that Mr. Burke was about to return immediately to England, and that a young man,* a native of Halifax in Nova Scotia, had been brought here to supply his place. Mr. Burke has abilities that might render him useful in any office, and had he remained in Canada, I should have had great pleasure in shewing him every attention in my power, whether I continued in the situation of Governor's Secretary or not. I hope Your Lordship will have the goodness to remember me most kindly to him.

I have the honor to be,

My Lord,

Your Lordship's most obliged and

Most humble servant,

H. W. RYLAND.

* Mr. A. W. Cochran.



MR. RYLAND TO THE EARL OF LIVERPOOL

QUEBEC, 10th May, 1813.

MY LORD,—In a letter which I did myself the honor of writing to Your Lordship, in the month of August last, I took the liberty of stating the very unpleasant circumstances under which I held the situation of Governor's Secretary in this Province, which Your Lordship had so kindly interested yourself to secure to me; and shortly afterwards, through a particular friend, Colonel Baynes, the Adjutant General, who is allied to Sir George Prevost, I gave the latter to understand that, from the line of conduct observed towards me, I felt that it would be agreeable to his wishes, as well as consistent with my own honor, were I to resign the appointment of Civil Secretary, but that my circumstances were such I could not do so without serious injury to my family, unless I obtained an equivalent.

The Governor and Colonel Baynes being at that time at Montreal, I received through the latter an answer of a conciliatory nature, and I was, from that time treated with a shew of respect that rendered my situation somewhat less irksome, and determined me not to relinquish it.

On the 5th of last month, however, one of the General's Aides-de-Camp called upon me very unexpectedly with a verbal proposal "that I should retire from the duties of " Civil Secretary, but continue to receive the pecuniary " advantages arising from that office, till an equivalent " could be given to me." To this proposal, in order to prevent any mistake, I returned an immediate answer in writing, a copy of which I beg leave to enclose.

The next day I waited on the Governor by appointment, when he received me with much civility. He had my letter in his hand, and told me he had read it with attention. He then proceeded to observe, that Mr. Brenton, the gentleman whom he had brought with him from Halifax as Assistant Secretary, had been in habits of intimacy with him for several years, that he had obtained his entire confidence, which he gave me to understand he could not transfer to me who was in a manner a stranger to him; that I must be sensible the Secretary's office could be guided only by one head, and at the same time he

expressed a wish that a means could be devised for my retiring from that office without injury to my private circumstances.

I answered that I had now held the situation of Governor's Secretary for the extraordinary period of twenty years, that I felt conscious of having uniformly served with zeal and fidelity, and that in my official capacity I had never had any other object in view but to promote to the utmost of my ability the interests of the Crown and those of the public, and that I thought I had a fair claim to be enabled to retire on terms which would not materially lessen my annual income, or lower me in the public estimation, to which the Governor readily assented. I mentioned the establishment of the Executive Council office as absolutely requiring to be put on a better footing, and as affording the most eligible means of my being compensated for the loss of the Secretariship, and two days afterwards I sent to the Governor a memorial on the subject of which, as well as of his answer, I now take the liberty to enclose copies, in the hope that the arrangement which the Governor has made with regard to the Council office, and which he will of course submit to the Secretary of State for this department, may, if necessary, obtain Your Lordship's countenance and support.

I have the honor to be, with the utmost respect,
My Lord,

Your Lordship's most obliged and
Most humble servant,
H. W. RYLAND.

MR. RYLAND TO SIR GEORGE PREVOST, BARONET.

QUEBEC, 5th April, 1813.

SIR,—Captain Milnes having this morning called upon me with a proposal from Your Excellency, of a very delicate nature, I flatter myself you will not deem it impertinent if I take the liberty to state in writing what I understand to have been the purport of it, which is, “that I should retire from the duties of Civil Secretary, “but continue to enjoy the pecuniary advantages attached “to that office, till you are enabled to give me an equivalent.”

R

Had Your Excellency, on the receipt of my letter of the 4th June, 1811, been pleased to inform me that, from the time of your entering upon the administration of this Government, my appointment as Secretary to the Governor General would cease, or that it would undergo any material alteration, I should immediately have availed myself of the opportunity I then had to submit to the Secretary of State my pretensions on retiring from a situation of so confidential a nature, after having held it for a period of nearly nineteen years. I should, however, have limited my expectations to what, in my humble opinion, could not but have been considered as reasonable and just.

I should have informed the Secretary of State that I had been more employed in the business of the Executive Government of this Province than any other individual whatsoever; that in the course of my services under five different administrations of the Provincial Government, I had obtained (without solicitation on my part) three patent appointments to which salaries are annexed, viz.: the appointment of Clerk of the Executive Council of Lower Canada, with a salary of four hundred pounds a year; that of Clerk of the Crown in Chancery, with a salary of one hundred; and that of Treasurer for the Jesuits' Estates, with a salary of one hundred and thirty-five pounds sterling per annum, making in the whole £635 a year, out of which I had to pay the contingent expenses of each of the above offices, including salaries to copying clerks, &c. And at the same time I should not have concealed that, in addition to those appointments, I had a pension of £300 per annum granted to me in reward of my public services prior to the year 1804.

Upon these grounds, as well as upon the very important and confidential nature of the business which at that time had occasioned my being sent to England, I should have founded my claim to be enabled to retire from the Secretaryship upon such terms as would not have caused a diminution of the income which I was then in the receipt of from Government, and I trust Your Excellency will not think me presumptuous when I say, that I feel persuaded pretensions so well founded would, without difficulty, have been acceded to by the Secretary of State.

In all events, I should have known the actual prospect before me, and have made my arrangements accordingly.

The character which in the course of twenty years' service under this Government I flatter myself I have acquired as a public servant of the Crown, I cannot but be anxious to maintain. It is to this that I was indebted for the honor of a recommendation to Your Excellency from the Earl of Liverpool, as well as for that subsequently conferred upon me by His Royal Highness, the Prince Regent, in appointing me to seat in the Legislative Council.

Being conscious of the disinterestedness and integrity of my intentions in entering as I did into a correspondence with Your Excellency on your being appointed to relieve the late Governor in Chief, and nothing having been further from my intention than to obtrude my services upon you, I can have no hesitation in acceding to your proposal, provided I have correctly understood it, and I shall now only beg Your Excellency will have the goodness to inform me in what manner it is your intention to carry it into execution.

I have the honor to be,

Sir,

Your Excellency's most obedient and
Most humble servant,

H. W. RYLAND.

EXTRACT OF A LETTER FROM MR. RYLAND TO THE
EARL SPENSER, K. G.

QUEBEC, 10th May, 1813.

Thus, My Lord, have terminated what may be called my diplomatic functions under this Government. I have not, either directly or indirectly, heard a single reason assigned for Sir George Prevost's conduct towards me, beyond those which I have mentioned. I am ready, however, to allow that from the whole tenor of my correspondence with him whilst I was in England, he must see that my sentiments with regard to the system of policy most advisable to be adopted in the administration of this Government are in direct opposition to his own, but I have never for a moment offered to obtrude them upon

him since my return. I cannot, however, avoid deeply lamenting that those measures which, during the last ten or twelve years, have been the principal objects of this branch of the Colonial correspondence should be lost sight of, perhaps for ever. By the present Governor of this Province I know they are held in contempt, but by his immediate predecessors, (Lieut. Governor Milnes and Sir James Craig,) they were considered as of the utmost importance to the interests of the Crown, and to the general welfare of this Colony.

It was not possible to feel a higher degree of gratification than that which I experienced when the great man who lately administered this Government determined on sending me to England for the purpose of pressing these matters more earnestly on the attention of His Majesty's Ministers. I flattered myself that I should be able to convince them of the important advantages to be derived to the Crown from a permanent increase of the territorial revenue to the amount of twenty or thirty thousand pounds a year; from taking into the hands of the Crown the patronage of the Romish Church, which had been tendered to it by the late Roman Catholic Bishop; from raising up and placing on a permanent basis the Protestant Church Establishment in Lower Canada; from the erection and endowment of public schools, and laying a foundation for the advancement of learning throughout the Province under the auspices of the Executive Government; and, finally, from providing efficient checks to counteract a faction in the House of Assembly which has already made a rapid progress towards the destruction of the constitution so liberally given to the Colony by the parent State.

I flattered myself, My Lord, that I might have materially assisted in bringing these important measures into execution. After much exertion, success at one moment seemed about to crown my efforts. A despatch comprehending the several objects was drafted (and shewn to me) in the very terms that I myself had suggested; but the Secretary of State thought it necessary to submit this despatch to the Lord Chancellor, and "*the Lord Chancellor had doubts*;" and there the whole business has ever since remained, to the infinite detriment of His Majesty's interests

Trusting that the Crown may again have the advantage of Your Lordship's Councils, and that an opportunity may yet occur of your being called upon for an opinion respecting the system of policy most proper to be adopted with regard to this Colonial Government, I have ventured to give you these particulars; at the same time, I beg leave to observe that I have no intention of recommending the *present* as a favorable moment for carrying the measures I allude to into execution. Circumstances are not only essentially changed by the war, but the Government of this Province is no longer administered by that firm and comprehensive mind which would have beaten down opposition, and have disposed the parties concerned to a ready acquiescence in what was proposed.

I must, nevertheless, consider these measures as of such vital importance to the interests of the Crown in this Colony, that they ought never to be lost sight of by the Government at home, or by His Majesty's representative here, and that no fair occasion should be neglected of taking advantage of circumstances which may gradually prepare the way for their final accomplishment.

I have the honor to be, &c.,

H. W. RYLAND.

Correspondence relative to Mr. Ryland's appointment to the Legislative Council.

SIR J. H. CRAIG TO THE EARL OF LIVERPOOL, &c., &c., &c.

UPPER CHARLOTTE STREET,

10th December, 1811.

MR LORD,—Though perfectly aware that I have no longer any official claim on Your Lordship's attention, yet am I not without some confidence that Your Lordship will, with your accustomed goodness, listen to and excuse the liberty I take of recommending that Mr. Ryland may be advanced to a seat in the Legislative Council, in the Province of Lower Canada.

It is scarcely necessary that I should observe to your Lordship, that there are very few indeed, who from their knowledge of the interior state of the Colony, its interests,

and the peculiar circumstances attending its political situation, are better calculated to fill the station with beneficial effect to His Majesty's service.

But I request that Your Lordship will allow me to add, that while such a mark of the approbation of His Royal Highness the Prince Regent to Mr. Ryland's long and meritorious services could not be otherwise than highly gratifying to that gentleman, I should myself experience a share of personal interest on the occasion, as feeling that such a distinction conferred on one who was so confidentially employed by me, could not fail in the tendency to impress the public mind in that country, with the idea that my own services while in the administration of the Government had not been received unfavorably by His Royal Highness.

I have the honor to be,

My Lord,

Your Lordship's most obedient humble servant,

J. H. CRAIG.

MR. PEEL TO SIR JAMES H. CRAIG, &c., &c., &c.

DOWNING STREET, 14th December, 1811.

SIR,—I am directed by the Earl of Liverpool to acquaint you that His Lordship has received your letter of the 10th instant, recommending the appointment of Mr. Ryland to a seat in the Legislature of Lower Canada.

The sole ground on which His Lordship has hesitated for a moment to submit the name of Mr. Ryland to His Royal Highness the Prince Regent is a doubt whether the situation which Mr. Ryland holds as Clerk of the Executive Council is quite compatible with a seat in the Legislative Council.

His Lordship begs that you will have the goodness to favor him with the communication of your opinion upon this point.

I have the honor to be,

Sir,

Your most obedient humble servant,

ROBERT PEEL.

SIR JAMES H. CRAIG TO MR. PEEL.

UPPER CHARLOTTE STREET,

16th December, 1811.

SIR,—I have had the honor of your letter of the 14th, acquainting me that the sole ground on which Lord Liverpool has hesitated to submit the name of Mr. Ryland to His Royal Highness the Prince Regent, is a doubt whether the situation which that gentleman holds as Clerk of the Executive Council is quite compatible with a seat in the Legislative Council, and conveying to me His Lordship's desire of my opinion on the subject.

I beg you will do me the favor to assure Lord Liverpool that I cannot see how, in any respect, the office alluded to can be incompatible with the situation which I solicited for Mr. Ryland. There cannot be any interference in their duties, and as to the respectability of the situation, I consider it as standing *very high among the servants of the Crown*, placing the occupier far above many who have been in the Legislative Council.

I have the honor to be,

Sir,

Your most obedient humble servant,
J. H. CRAIG.

Robert Peel, Esq.,
Under Secretary of State,
&c., &c., &c.

MR. PEEL TO SIR JAMES H. CRAIG, &c., &c., &c.

DOWNING STREET, 17th December, 1811.

SIR,—I have submitted to Lord Liverpool the letter which I had the honor of receiving from you, dated the 16th instant, and I am to acquaint you that the mandamus for Mr. Ryland's appointment to a seat in the Legislative Council will be immediately prepared for the signature of His Royal Highness the Prince Regent.

I have the honor to be, Sir,

Your most obedient humble servant,
ROBERT PEEL.

Sir James Craig,
&c., &c., &c.

**DRAFT OF LETTERS PATENT FOR THE APPOINTMENT
OF A SUPERINTENDENT OF THE ROMISH CHURCH
IN THE PROVINCE OF LOWER CANADA.**

(Probably drafted by the late Chief Justice Sewell, when Attorney General.)

GEORGE THE THIRD BY THE GRACE OF GOD, &c., &c., &c.

To all to whom these Presents shall come,

GREETING :

Whereas by an Act of Parliament made and passed in the fourteenth year of our reign, intituled, "An Act for making more effectual provision for the Government of the Province of Quebec, in North America," it is, amongst other things, declared, "That our subjects professing the religion of the Church of Rome, of and in the said Province of Quebec, may have, hold, and enjoy the free exercise of the religion of the Church of Rome, subject to our supremacy, declared and established by an Act made in the first year of the reign of Queen Elizabeth over all the dominions and countries which then did, or thereafter should, belong to the Imperial Crown of our realm."

And whereas, also, in and by the same Act it was further enacted, "That nothing therein contained should extend or be construed to extend to prevent or hinder us, our heirs and successors, by our or their Letters Patent, under the great seal of Great Britain, from creating, constituting, and appointing such Courts of criminal, civil, and ecclesiastical jurisdiction within and for the said Province of Quebec, and appointing, from time to time, the judges and officers thereof, as we, our heirs and successors, shall think necessary and proper for the circumstances of the said Province."

And whereas the doctrine and discipline of the Church of Rome are professed and observed by a very considerable part of our loving subjects in that part of our late Province of Quebec which now forms and constitutes our Province of Lower Canada, and the Clergy of the said Church having cure of souls in our said Province are numerous, so that it is necessary we should provide forthwith for the better government of the said Church, and the Clergy thereof.

Therefore, to this end we, having great confidence in the learning, morals, probity, and prudence of our beloved A. B., of —, &c., have constituted, named and appointed, and by these presents do constitute, name and appoint him, the said A. B., to be our Superintendent Ecclesiastical for the affairs of the Church of Rome in our Province of Lower Canada, to have, hold, exercise and enjoy the said office of Superintendent Ecclesiastical for the affairs of our Church of Rome in our Province of Lower Canada, for and during our Royal pleasure, with a salary of — pounds sterling per annum.

And we do hereby authorise and empower the said A. B., and his successors in the aforesaid office, to have, hold, and exercise, during our Royal pleasure, jurisdiction, spiritual and ecclesiastical, in and throughout our said Province of Lower Canada, according to law, in the several causes and matters hereafter in these presents expressed and specified, and no other. And for a declaration of our Royal pleasure concerning the special causes and matters in which we will that the aforesaid jurisdiction, spiritual and ecclesiastical, shall be so exercised, we have given and granted, and do by these presents give and grant to our Superintendent Ecclesiastical for the affairs of the Church of Rome in our said Province of Lower Canada, full power and authority to confer the Orders of deacon and priest; to give institution by himself, or his sufficient substitute, unto all priests and deacons who by us shall be presented and collated unto any benefice in the said Province, with cure of souls, to visit all religious communities, all curés, vicaires and incumbents of all or any of the churches within the said Province wherein Divine service shall be celebrated according to the Liturgy of the Church of Rome, resident in the said Province, with all, and all manner of lawful jurisdiction, power and coercion ecclesiastical, which is requisite, and by law may be so exercised in the premises; to call before him at such competent days, hours and places whatsoever, when and as often to him shall seem meet and convenient, the aforesaid curés, vicaires, and incumbents, priests or deacons, in Holy Orders of the Church of Rome, or any of them; and to inquire by witnesses to be by him sworn in due form of law, and by all

other lawful ways and means by which the same may by law be best and most effectually done, as well concerning their morals as their behaviour in their several offices and stations respectively; to administer all such oaths as are accustomed to be taken in ecclesiastical Courts, and to punish the aforesaid curés, vicaires, incumbents, priests, and deacons in Holy Orders of the Church of Rome, according to their demerits by all lawful ecclesiastical censures or correction as they may be liable to according to law: nevertheless, we will and do by these presents declare and ordain that it shall be lawful for any person or persons against whom any judgment, decree or sentence shall be pronounced by our said Superintendent Ecclesiastical for the affairs of the Church of Rome in our said Province of Lower Canada, and for our Attorney General of and for our said Province for the time being, on our behalf to demand a re-examination, revision and review of such judgment, decree, or sentence before our Court of Appeals of and for our said Province, by an appeal "*comme d'abus*," or otherwise, who upon demand made shall take cognizance thereof, and shall have full power and authority to affirm, reverse, or alter the said judgment, sentence or decree of our said Superintendent Ecclesiastical for the affairs of the Church of Rome in our said Province of Lower Canada, after having fully and maturely re-examined, revised and reviewed the same; and if our said Attorney General, or any party or parties, shall conceive himself or themselves aggrieved by any judgment, decree or sentence pronounced by our said Court of Appeals, in case of any such revision, it shall be lawful for such Attorney General, and for such party or parties, so conceiving himself or themselves to be aggrieved, to appeal from such sentence to us, our heirs and successors, in our Privy Council, at any time within one year from the date of the judgment of our said Court of Appeals, provided always that nothing herein contained shall extend or be construed to extend to deprive our Courts of King's Bench of and for our said Province, or any or either of them of the legal power of superintending and controlling the exercise of the legal jurisdiction hereby vested in our said Superintendent Ecclesiastical for the affairs of the Church

of Rome in our said Province of Lower Canada, by the writs of prohibition, mandamus, certiorari, or otherwise howsoever, or to affect the same in any manner or way whatsoever; but that such power shall, and may be exercised by our said Courts of King's Bench, respectively in all cases within the limits of their respective jurisdictions, anything herein contained to the contrary notwithstanding; and further, we have given and granted, and do by these presents give and grant to our said Superintendent Ecclesiastical of the affairs of the Church of Rome in our said Province of Lower Canada, and his successors, full power and authority, from time to time during our pleasure, to name and substitute under his and their hands and seals, by and with the consent and approbation of the Governor, Lieutenant Governor, or person administering the Government of the said Province for the time being, one or more vicar or vicars general for the exercise and performance of all and singular the duties which by law may in that office be exercised in the said Province, and by and with the like consent and approbation aforesaid, to remove and change the said vicars general, or either of them from time to time as shall be necessary, but not otherwise.

Moreover, we command, and by these presents for us, our heirs and successors, strictly enjoin all and singular curés, vicaires, incumbents and others, our subjects in our said Province of Lower Canada, that they and every of them be aiding and assisting to our Superintendent Ecclesiastical for the affairs of the Church of Rome in our said Province, and his successors, in the execution of the premises in all things as becomes them; and further, to the end that the several matters aforesaid may be firmly holden and done, we will and grant to the aforesaid A. B., that he shall have our Letters Patent under our great seal of the United Kingdom of Great Britain and Ireland duly made and sealed.

In witness whereof we have caused these our Letters to me made Patent.

Witness ourself at _____

EXTRACT OF A LETTER FROM MR. RYLAND, DATED QUEBEC, 28TH OCTOBER, 1813, TO MR. BRENTON, SECRETARY TO SIR GEORGE PREVOST, BARONET.

"Since writing the above, Mr. Douglass has called upon me with a message from Mons. Plessis, expressive of a desire that in the warrant for his allowance he should be styled *Roman Catholic Bishop of Quebec*, instead of "Superintendent of the Romish Church."

"Not feeling myself at liberty to adopt an alteration so essentially different from the usage which has hitherto been observed under this Government, in pursuance of His Majesty's instructions, I think it incumbent on me to submit this matter to the Governor in Chief, in order that I may be guided by His Excellency's directions respecting it."

EXTRACT OF A LETTER FROM MR. BRENTON, DATED MONTREAL, 2ND NOVEMBER, 1813, IN ANSWER TO THE FOREGOING.

"As by the enclosed extract from Lord Bathurst's letter respecting the additional allowance to the Rev. Mr. Plessis, he appears to recognize him as the *Catholic Bishop of Quebec*, His Excellency does not see any objection to a compliance with Mr. De Plessis' wishes in styling him *Roman Catholic Bishop of Quebec*, unless there should be any particular instruction of His Majesty to the contrary."

Inclosure.

EXTRACT OF EARL BATHURST'S LETTER, DATED 2ND JULY, 1818.

"I have to express my entire concurrence in the opinion which you have expressed to the merits of Mr. De Plessis, and the inadequacy of his present allowance. I have had, therefore, the greater pleasure in submitting to His Royal Highness the Prince Regent your recommendation for the increase of his salary, and have to signify to you His Royal Highness' commands in the name and on the behalf of His Majesty, that the salary of the *Catholic Bishop of Quebec* should henceforth be increased to the sum recommended by you of £1000 per annum, as a testimony of

the sense which His Royal Highness entertains of the loyalty and good conduct of the gentleman who now fills that station, and of the other Catholic Clergy of the Province."

Answer to the above.

MR. RYLAND TO MR. BRENTON, SECRETARY, &c.

QUEBEC, 5th November, 1813.

SIR,—I have to acknowledge the receipt of your letter of the 2nd instant, together with the several papers therein mentioned. In obedience to the Governor in Chief's commands, I have prepared the warrant for Mr. Plessis allowance as *Roman Catholic Bishop of Quebec*. The Royal Instructions to which I referred in my letter to you, of the 28th October, are those to Sir Guy Carleton, of the 3rd January, 1775, which were ordered to be printed on the 21st April, 1791, at the time of passing the Quebec Act of that year, and which, as far as my knowledge goes, have formed a part of His Majesty's instructions to every subsequent Governor of this Province.

I mention this circumstance merely in consequence of the expression contained in your present letter, in which you say "unless there should be any particular instruction of His Majesty to the contrary;" and I trust His Excellency will not consider me as having stepped beyond the line of my duty in noticing the subject."

I am, &c.

H. W. RYLAND.

MEMOIRE AU SOUTIEN DE LA REQUETE DES HABITANS DU BAS-CANADA, A SON ALTESSE ROYALE LE PRINCE REGENT, HUMBLEMENT SOUMIS A LA CONSIDERATION DE MILORD BATHURST, MINISTRE D'ETAT POUR LES COLONIES.

N. B.—A printed copy of this Memoire is supposed to have accompanied a general address that was forwarded to England in the year 1814; and there is every reason to believe that the said *printed paper* was transmitted by the Secretary of State to Sir George Prevost, who put it

into the hands of several persons, but without mentioning from whom he received it, and it is very certain that the Memoire itself was communicated only to a very few select persons, the people at large knowing no more of it than they did of what was then passing in the moon.

H. W. R.

Nous regardons notre constitution actuelle comme celle qui est la plus capable de faire notre bonheur, et notre plus grand désir serait d'en pouvoir jouir suivant l'intention de *Sa Majesté et de son Parlement* ; mais, malheureusement, la manière dont elle a été administrée, jusqu'ici, lui donne un effet bien opposé à cette intention.

Ce mauvais effet est une suite de la manière dont se sont formés les partis dans cette province.

Lorsque notre constitution nous a été donnée, les anciens sujets (dénommés Anglais dans le pays, de quelques nations qu'ils soient) étaient en possession des places du gouvernement. Si quelques Canadiens y étaient admis, c'était sur leur recommandation, et ils étaient choisis du nombre de ceux qui leur étaient dévoués.

Depuis la constitution, les choses ont continué sur le même pied, les anciens sujets ont continué d'être en possession des places, et sont devenus le parti du gouvernement ; le canal des recommandations est continué le même, et il n'a été admis aux places, comme auparavant, que quelques Canadiens dont le dévouement était connu.

Comme les Canadiens composent la masse du peuple, la majorité de la Chambre d'Assemblée s'est trouvée composée de Canadiens, et les Anglais, avec quelques Canadiens dévoués, ont formé la minorité ; et comme les Canadiens de la majorité, librement élus par le peuple, ne se trouvaient pas avoir le dévouement nécessaire, ils n'ont pu avoir part aux places. Les membres qui ont été faits Conseillers Exécutifs ont été pris dans la minorité ; le parti du gouvernement s'est trouvé lié avec la minorité de la Chambre d'Assemblée, et la majorité, c'est-à-dire la Chambre d'Assemblée elle-même, à laquelle est attachée la masse du peuple, regardée comme un corps étranger, à peine reconnu du gouvernement et des autres branches de la législature, a été laissée dans l'opposition comme destinée à être menée par la force ; et effectivement les gens du

parti anglais, qui avaient manqué de succès dans les efforts qu'ils avaient faits pour que la constitution leur fut donnée à eux seuls, et que les Canadiens n'y eussent aucune part, se trouvèrent, étant devenus le parti du gouvernement, avec un moyen d'empêcher les Canadiens d'en jouir autrement qu'ils ne le voulaient eux-mêmes.

A chaque fois que les Canadiens ont voulu proposer quelque chose qui n'était pas conforme aux idées de ce parti, ils se sont trouvés en opposition avec le gouvernement, et ont été traités de mauvais sujets et de gens opposés au gouvernement. Le gouvernement n'a aucune communication avec la majorité de l'Assemblée que par le moyen des conseillers et gens en place de la minorité, qui, étant rivaux de la majorité, sont peu propres à la bien représenter.

Il est en leur pouvoir de faire telles représentations que bon leur semble de ses mesures, de ses sentimens et de ses intentions, et n'étant point de la majorité, ils sont plutôt comme des espions employés par le gouvernement pour épier cette majorité, que comme les membres par lesquels un corps communique régulièrement avec son gouvernement. Les plans et projets du gouvernement sont préparés par les conseillers de la minorité, avec les autres conseillers, sans la participation des membres de la majorité, et sont ensuite apportés à la Chambre pour être passés par la majorité, et la majorité n'a alors d'autre alternative que de les passer ou de se trouver en opposition avec la minorité, c'est-à-dire avec le gouvernement, et d'être traitée comme on traiterait des rebelles au gouvernement. Le style des gens du gouvernement, avec des talens le plus souvent assez médiocres, et n'ayant qu'un lustre et un mérite qui leur est étranger, peut facilement être imaginé. Les divisions de la Chambre d'Assemblée deviennent nationales; les Anglais d'un côté formant la minorité, à laquelle est lié le gouvernement, et les Canadiens de l'autre formant la majorité, à laquelle est attachée la masse du peuple; la chaleur de ces divisions nationales *passse* de la Chambre d'Assemblée *dans le peuple*, tout le pays se trouve divisé en deux partis; le parti anglais du gouvernement d'un côté, et la masse du peuple de l'autre. Cette apparence des *Canadiens Catholiques Français* en opposition avec leur gouvernement, augmente

continuellement contre eux les préjugés de la partie vulgaire du parti anglais, qui les traite de bonne foi de la manière la plus révoltante pour un peuple qui se sent loyal; et ainsi plus les Canadiens veulent *jouir de leur constitution*, plus ils donnent matière au prétexte sur lequel le parti anglais fonde son intérêt comme parti, savoir, celui du peu de confiance qu'on doit avoir dans les Canadiens.

Les gouverneurs qui ne connaissent les Canadiens que par les gens du parti anglais qui sont dans les emplois du gouvernement, sont frappés de les voir continuellement opposés au gouvernement et aux Anglais, et ne peuvent s'empêcher de contracter bientôt les mêmes préjugés qu'eux, qu'ils font sans doute passer au gouvernement de la mère-patrie; de sorte que l'effet naturel de l'exercice de la constitution par les Canadiens, est d'enflammer la division entre les Anglais et eux, de les faire regarder ici comme de mauvais sujets toujours opposés à leur gouvernement et aux Anglais, et de donner une mauvaise idée d'eux au gouvernement de Sa Majesté, en Angleterre.

A chaque fois que les Canadiens, *encouragés par l'idée de leur constitution*, ont essayé d'en jouir, ils ont été terrassés, comme opposés au gouvernement; ils ont encore le cœur brisé des traitemens qu'ils ont éprouvés sous l'administration du gouverneur précédent. Il leur semble être les jouets d'une contradiction étrange, comme si d'un côté une constitution leur eut été donnée, sans doute pour en jouir, et que de l'autre il eut été placé un gouvernement exprès pour les en empêcher, ou au moins pour empêcher qu'ils ne puissent le faire, sans paraître mauvais sujets. Ils sont plus mal que s'ils eussent été privés d'avoir part à la constitution, et qu'elle eût été donnée aux anciens sujets seuls; car ils ne seraient pas plus privés d'en jouir, et elle ne serait pas un moyen de les rendre odieux à la mère-patrie.

Il leur paraît impossible que l'administration soit placée dans les mains d'un parti qui les regarde comme leurs rivaux, sans que l'effet direct soit de les tenir continuellement, et comme exprès, en opposition avec leur gouvernement. Ce parti a intérêt de les faire passer pour déloyaux; il a intérêt de les gouverner de manière à les faire paraître tels; de manière même à les rendre tels pour qu'ils le paraissent.

L'effet d'une telle administration qui tient continuellement le peuple en opposition avec son gouvernement ne peut être que bien mauvais.

L'administration elle-même ne peut être propre à attacher le peuple au gouvernement; elle paraît au contraire celle qui serait la plus propre à faire du peuple le plus loyal un peuple de mauvais sujets. Les maximes sur lesquels ce parti soutient son intérêt corrompent les idées avantageuses que les Canadiens ont de leur constitution, et tendent à la leur faire paraître sous un jour sombre et odieux.

D'après ces maximes, les intérêts du Gouvernement seraient regardés comme opposés à ceux du pays; les Canadiens comme moins attachés aux intérêts de la mère patrie, parce qu'ils sont plus attachés à leur pays, et les gens du parti anglais comme les seuls à qui les intérêts du Gouvernement de Sa Majesté puissent être confiés, parce qu'ils ont moins d'affection pour le pays. Cette colonie serait regardée plutôt comme *une proie* qu'on a besoin de tenir par force, que comme une dépendance de l'empire qui lui est attachée par son propre bonheur, comme les autres partis.

Ce n'est pas l'intention de la mère patrie que tout soit sacrifié dans le pays, pour que *les places* soient données à un parti plutôt qu'à un autre; et cependant il se trouve que tout a été sacrifié pour que *les places* fussent données à ce parti. C'est pour que toutes *les places* de conseillers fussent données à ce parti, qu'aucun des membres de la majorité de l'assemblée, pas même l'orateur, n'a pu être conseiller, ce qui est la cause de tout le désordre qui paraît dans l'exercice de notre constitution. Nos lois de propriété sont tombées dans l'oubli, pour que nous eussions sur le banc des juges de ce parti qui les ignoraient. Il y a un juge en chef et deux juges puisnés pour juger les actions "*for goods sold and delivered*," et quelques autres actions mercantiles, et il n'y a qu'un juge canadien pour toutes les lois qui assurent les propriétés des sujets canadiens de Sa Majesté.

Nos règles et nos formes de procéder sont tombées dans l'oubli pour avoir sur le banc des juges de ce parti qui les ignoraient; le défaut d'expérience qui ne se doute jamais

des difficultés, a suggéré aux juges qui se trouvaient dans la Législature, (l'ancien Conseil Législatif) d'en créer de nouvelles pour n'avoir pas la peine d'apprendre les anciennes.

Les nouvelles se sont trouvées imparfaites, il a fallu en faire de nouvelles encore, qui se sont encore trouvées imparfaites ; il a fallu enfin abandonner aux cours de justice le pouvoir d'en faire à discrétion, et ainsi, elles ont toujours été dans une fluctuation continuelle par le besoin de changer continuellement ; toujours nouvelles, toujours sujettes à interprétations, à des cas imprévus, à être enfreintes lorsqu'il était trouvé équitable de les enfreindre, et l'administration de la justice a été arbitraire faute de règles certaines et connues pour la procédure, et tout remède est impossible, soit qu'on s'adresse à la Législature ou à l'Exécutif, parce que par une suite de mal dont nous nous plaignons, et pour avoir partout les gens de ce parti, qui ne peuvent suffire à tout, les juges sont dans les Conseils Législatif et Exécutif.

La défense de la Province ne peut être que considérablement affaiblie par l'existence des partis tels qu'ils sont dans le pays. Un gouverneur ne peut avoir pour lui le parti anglais, le parti du Gouvernement, sans adopter toutes ses idées, ses préjugés et ses plans contre les Canadiens ; il ne peut se rendre les Canadiens, tant soit peu favorables, sans exciter contre lui la haine de tout ce parti si puissant par ses clameurs qui corrompent tout dans le pays, et pour ses communications en Angleterre, qui font paraître continuellement précaire et incertain le sort de ceux contre qui ils se plaignent.

Il y aura bien peu de gouverneurs qui auront assez de talens pour lutter contre tant de désavantages, et une vertu assez sublime pour faire ce qu'ils croiront de leur devoir pour le plus grand intérêt de la mère patrie, au risque de succomber sous les rapports faits contre eux auprès du Gouvernement de la mère patrie, et de paraître l'avoir mal servi ; tandis qu'il serait si facile de suivre la méthode qui procurerait des applaudissemens et des rapports favorables, en donnant pour excuse le peu de confiance qu'il y a à placer dans les Canadiens.

Les Canadiens formant la principale population du pays, et celle dont le Gouvernement peut tirer quelque ressource dans le besoin, il serait juste qu'ils eussent le moyen d'être connus par eux-mêmes, et qu'il ne fut pas abandonné au parti qui leur est opposé, quelque respectable qu'il soit, de les représenter sous les couleurs que bon lui semble. Tous les conseillers et gens en *place* qui sont appelés près du Gouverneur, étant de ce parti, le Gouverneur n'a aucun moyen de connaître les Canadiens que par eux.

Si un Gouverneur a voulu être juste et entendre les deux partis, il a été obligé de le faire comme à la dérobee par des moyens irréguliers, et n'a pu le faire sans avoir l'air de négliger les conseils qui lui étaient donnés par les conseillers et officiers du Gouvernement, pour se conduire par des conseils obtenus çà et là des particuliers, et sans exciter par là, avec quelque apparence de plausibilité, la jalousie et la haine des premiers et de tout le parti.

S'il est juste que les Gouverneurs connaissent les deux partis, et qu'ils ne reçoivent point les accusations contre les habitans du pays, sans les entendre, il est juste que ces derniers aient aussi un moyen régulier d'être entendus par des conseillers et gens en *place*, pris d'entreux, et que ces conseillers *ne soient pas nommés d'après les recommandations qui passent par le Canal ordinaire.*

La Chambre d'Assemblée offre un moyen d'en obtenir d'une manière régulière, sans que ce soit sur les recommandations de ceux du parti anglais. Si le Gouverneur *avait le pouvoir* d'appeller au conseil les principaux membres de la majorité de la Chambre d'Assemblée, il aurait par là un moyen d'entendre les deux partis, et de n'être point obligé de ne connaître l'un que par les informations reçues de l'autre, il ne serait plus privé des connaissances et des Conseils qu'il pourrait tirer des anciens habitans du pays, et nécessité de n'écouter que ceux qui viennent du parti opposé, qui n'est pas celui où il y a le plus de connaissances du pays, ni le plus d'intérêts conformes à ceux du pays.

Après avoir entendu les deux partis, il serait en état de décider sur les mesures qu'il a à prendre, et de transmettre des informations justes en Angleterre.

Il ne serait pas obligé de suivre les conseils donnés quand il ne les trouverait pas justes, il aurait seulement l'avantage d'en profiter lorsqu'ils le seraient.

Il ne serait pas exposé à se trouver si souvent en opposition avec la Chambre d'Assemblée.

Il y aurait un lieu où les deux partis pourraient s'entendre et se concilier sur leurs plans et leur projets, et bien des oppositions inutiles qui ne viennent que de ce que les projets ont été concertés séparément, et de ce que l'amour propre de ceux qui les ont faits se trouve engagé à les soutenir, seraient ôtées; il n'y aurait plus de moyen d'indisposer le Gouvernement, tant ici qu'en Angleterre, contre la masse du peuple du pays.

Le peuple se lierait plus avec le Gouvernement. Le Gouvernement qu'il ne regarderait plus comme composé de gens qui sont remplis de préjugés contre lui, et qui lui sont toujours opposés, lui inspirerait plus de confiance et de respect. Il n'arriverait plus que des plans seraient appuyés par le Gouverneur après que les débats en auraient fait appercevoir les erreurs d'une manière palpable, à la face de tout le public; il n'arriverait plus qu'on verrait les Gouverneurs s'appuyer de bonne foi sur des raisons données par la minorité dans l'assemblée, et dont tout le faible aurait été montré dans les débats. L'amour propre blessé d'un conseiller de la minorité n'aurait plus d'intérêt de faire reparaitre appuyé du Gouverneur, un principe ou une mesure dont l'absurdité aurait été publiquement découverte. La partialité des communications entre l'Assemblée et le Gouvernement par le moyen d'un conseiller attaché à la minorité, dont l'amour propre est intéressé à faire valoir le parti qu'il a pris, souvent au hasard, ou par esprit de rivalité sur une question imprévue, et à atténuer et déguiser la force des raisons employées contre lui, cesserait d'être une source de mésintelligences entre le Gouvernement et la Chambre d'Assemblée. La sensibilité des membres de l'Assemblée ne serait pas si souvent blessée par l'apparence de partialité du Gouvernement, pour un membre de la minorité contre toute l'Assemblée, et cette branche de la Législature ne serait pas ramenée si souvent au sentiment de sa propre dégradation, en se voyant jugée et souvent injuriée

sur le rapport intéressé d'un des membres de la minorité, et exposée à l'insolence irritée d'un de ces membres soutenu, par le Gouvernement dans les vains efforts qu'il fait contre elle.

Et enfin le moyen d'influence du Gouvernement sur la Chambre d'Assemblée, ne serait plus par des insinuations malignes, des injures et des menaces qui rebutent et qui jettent le feu de la discorde entre les deux partis dans l'Assemblée d'où il passe au dehors.

S'il était possible qu'un nombre *de places de conseillers ou d'autres places d'honneur et de profit, fut accordé à ceux qui ont le plus d'influence sur la majorité de la Chambre d'Assemblée, quelles dépendissent entièrement de leur succès à s'y maintenir, et qu'il fut certain et bien connu qu'il n'y aurait aucun autre moyen de les obtenir*, il y a lieu de présumer que les deux partis se réuniraient bien vite dans la Chambre d'Assemblée, que cette division nationale si contraire au but du Gouvernement disparaîtrait tant dans l'Assemblée qu'au dehors, et que cette apparence honteuse d'opposition entre les Canadiens et leur Gouvernement, qui flétrit le peuple du pays et le fait paraître sous les couleurs odieuses si peu méritées, d'un peuple de Rebelles, cesserait de gâter une des plus belles dépendances de l'Empire dans l'Amérique.

Les idées que ceux du parti anglais s'efforcent d'entretenir, que les Canadiens sont moins propres à remplir des offices de confiance parcequ'ils sont trop intéressés pour leur Pays, et qu'ils ont moins d'intérêt et d'affection pour la mère patrie, sont peu justes. Un Canadien est plus attaché à son pays qu'à toute autre partie de l'Empire, comme un Ecossais est plus attaché à l'Ecosse, comme un Anglais est plus attaché à l'Angleterre, il n'en est pas pour cela moins capable d'occuper des offices de confiance dans son pays. L'honneur ou même le risque de perdre sa place n'influera pas moins sur lui que sur un autre, en supposant le faux principe de la différence entre les intérêts de la mère patrie et ceux du pays.

Un ancien sujet doit être, il est vrai, plus attaché à l'Empire; mais aussi il a moins d'aversion pour le peuple et le Gouvernement des Etats-Unis, et si tout est mis en calcul, il en résultera qu'un Canadien est beaucoup plus

fortement attaché aux intérêts de la mère-patrie, relativement à la conservation de ce pays.

Les Canadiens incapables de se protéger eux-mêmes, n'ont point d'autres ressources que dans la protection de la mère patrie. Ce pays une fois perdu, ils n'ont plus de patrie où ils puissent tourner les yeux; un Anglais a encore sa patrie.

Si les Canadas passent sous la domination des Etats-Unis, leur population sera submergée par celle des Etats-Unis, et ils deviendront nuls, sans aucune influence dans leur Gouvernement; incapables de protéger leur religion, qui ne fera que les rendre odieux à toutes les autres sectes qui abondent dans les Etats-Unis, et qui, quoique tolérantes entr'elles, s'accordent toutes à détester la leur.

Tous les pères de familles attachés à leur religion ne peuvent penser qu'avec horreur à laisser en mourant leurs enfans sous une pareille domination. Tant que le pays demeurera sous l'empire Britannique, ils n'ont pas les mêmes dangers à craindre, ils n'ont pas à appréhender qu'une population ennemie de leur religion, émigre des domaines de la mère patrie; ils ont espérance que leur population sera toujours la plus considérable du pays, et qu'avec une constitution telle que leur a accordée la mère-patrie, ils auront le moyen de conserver leur religion, et tout ce qui leur est cher, pourvu que la mère-patrie veuille bien les laisser jouir de cette constitution sans qu'elle serve à les rendre odieux, et pourvu que l'encouragement donné à la population américaine dans ce pays par l'administration du parti anglais, cesse d'amener le mal qu'ils ont à craindre.

Ceux du parti anglais sont opposés à leurs intérêts, en ce qu'ayant beaucoup plus d'affinité avec les Américains par leurs mœurs, leur religion, leur langage, ils encouragent la population américaine, comme un moyen de se débarrasser des Canadiens qu'ils regardent toujours comme une population étrangère, comme une population française Catholique, avec les mêmes préjugés que la classe du peuple, dans la mère-patrie, a contre les Français et les Catholiques, ils ne peuvent s'empêcher de se regarder comme dans un pays étranger, dans une province où la

population canadienne (française) domine; une colonie peuplée d'Américains leur paraît plus une colonie anglaise, et ils ne s'y regarderaient pas autant comme dans un pays étranger. Ces effets sont encore augmentés par la circonstance, que la plus grande partie, peut-être, des officiers du Gouvernement est devenue personnellement intéressée à l'introduction de la population américaine dans ce pays, par les concessions des terres de la Couronne, qui leur ont été accordées, dans le voisinage des Etats-Unis; ainsi *le parti anglais est opposé au parti canadien*, justement sur le point qui touche à sa vie et à son existence comme peuple.

La seule chose qui reste aux Canadiens dans leur situation actuelle, est l'espoir qu'ils ont que la mère-patrie trouvera enfin que leurs intérêts concourent avec les siens pour la conservation du pays, que l'engloutissement de la population canadienne par la population américaine, sera l'engloutissement de la domination de la mère-patrie sur le pays, et que la perte de la vie politique des Canadiens, comme peuple naissant, sera aussi la perte de la vie politique de tout le pays, comme colonie britannique. Ils espèrent que ces choses seront apperçues de la mère patrie, et qu'on y concevra une assez bonne opinion de leur intérêt, sinon de leur fidélité, pour les juger dignes de jouir de leur constitution, en commun avec les autres sujets de Sa Majesté sans aucune distinction, et s'ils n'ont pas ce bonheur, ils se voyent par leur situation actuelle destinés à devenir, aux yeux de la mère patrie, un peuple odieux et continuellement soupçonnés, en attendant qu'ils soient engloutis dans le gouffre qui les attend.

Nous supplions Votre Seigneurie d'être persuadée que les sujets canadiens de Sa Majesté sont de vrais et fidèles sujets : ils ont déjà, sous les armes de Sa Majesté, conservé leur pays dans un temps où les autres sujets de Sa Majesté leur cédèrent en fidélité, ils sont encore actuellement sous les armes de Sa Majesté pour le défendre, si leur faibles efforts peuvent être un témoignage suffisant de leur fidélité, ils espèrent que Son Altesse Royale voudra bien prendre leur situation en considération, et leur accorder tel remède qu'elle jugera convenable.

REMARKS (BY C. J. M.*) ON A PUBLIC DOCUMENT
THAT ACCOMPANIED AN ADDRESS TO HIS ROYAL
HIGHNESS THE PRINCE REGENT FROM THE ROMAN
CATHOLIC INHABITANTS OF LOWER CANADA, FOR-
WARDED IN NOVEMBER, 1814,

Entitled,

“Memoire au soutien de la Requête des habitans du
Bas-Canada, à Son Altesse Royal le Prince Regent.”

“Humblement soumis à la consideration de Milord
Bathurst, Ministre d’Etat pour les Colonies.”

It is thought that this interesting document was pro-
duced by the combined efforts of the leading Roman
Catholic characters in the several Provincial Parliaments
held from 1809 to 1814 inclusive.

The sentiments expressed have been principally avowed
by those leaders, and uniformly pursued in the House of
Assembly.

The document, though accompanying the address, was
not, however, to the subscribers generally, nor can be
considered as being correctly a substantial part of it.

It would seem intended by this memoir to represent to
His Majesty’s Ministers the conflicts of parties in the
colony, their rise, and the occasions that produced them,
with their attendant pernicious consequences, and to point
out the means of avoiding existing and growing evils.

The document, when analysed, will present, under dif-
ferent heads, features of no small interest; when it is con-
sidered in respect to the sources from which they have
proceeded, and the ends to which they are directed.

1st. The Roman Catholic Canadians are rightly said to
constitute the great mass of the people of Lower Canada.
It is asserted that their delegates to the House of Assem-
bly represent the whole people.

And it is argued that *all* the representations of their
interests by those delegates—it would seem, by referring
to passed proceedings in the Legislature—become the
rights of the people.

2nd. To resist those rights so *represented*, is “to do in-
justice to the Canadian people. It not only excites con-

* Chief Justice Monk, it is presumed, the judges of that day
taking an active interest in politica.

"flicts between the legislating powers of Government, but
 "manifests an injustice that will justify the discontent of
 "the people, declared and enforced by their representa-
 "tives."

3rd. Throughout this whole document there pervades a continued libel upon, and an accusation of injustice, in the exercise of the prerogative in this Colonial Government. The officers, the servants of the Crown, are held up as a combined faction "of spies," struggling to support a Government adverse to the interest and rights of the people. And this is argued to be manifested by the Government not having appointed into the councils and offices of Government those leaders of the people influencing the majority of the Canadians, and from whom intelligence and support can alone be attained to His Majesty's Government.

4th. By this memoire every Roman Catholic Canadian character that has been promoted to the King's Council, or offices of his Government, are held up as persons devoted to support the adverse interests pursued by the Government minority against that of the Canadian people; and this minority is represented as English subjects, or rather Protestants, who are using constant devices to represent the Canadians as a disloyal people,—“a people and country rather considered as a prey, useful to be retained by force, than as a dependance of the Empire.”

5th. The appointment of His Majesty's *old* subjects as judges is held up as an injustice to the *new* subjects, the Canadians. These judges are indirectly vilified as being persons unqualified; and the proceedings of the Courts of Justice are represented as the result of ignorance, and uncertainty, and injustice. The errors of lay characters placed in those Courts some twenty to thirty years passed, are by allusions applied to the judges of the present day; and the Courts are falsely and grossly vilified. The purpose is plain: to degrade and weaken the main support of His Majesty's Government.

6th. It is stated that every Governor is shackled by those unfaithful servants, who are represented as a factious minority, that ensnare or impel the Governor to follow their counsel, or to be by them unfavorably repre-

sented in England as joining with disloyal Roman Catholics, the leaders of the Canadian people.

7th. That the only means of knowing the two parties, and to prevent the Governor's being ensnared by the minority above stated, would be that of a power lodged with the Governor to *select* from the majority of the House of Assembly (the leaders,) and place in the Executive Council such characters of those who might convey a true knowledge of the interests of the country, in place of being restrained to the minority, "Anglais," who neither possess the knowledge, the confidence, nor the interest of the people and country.

The piece concludes with calling to remembrance the loyalty of the Canadians in 1775, at a time that the king lost his other colonies. That at present they were under arms, to defend the country, and their efforts would shew at least their zeal and fidelity, and a hope that His Royal Highness would take their situation into consideration, and grant them a suitable remedy.

The main substance of this public document, proceeding from the mass of the Roman Catholic Canadian people, His Majesty's subjects, or by those entrusted to convey to His Majesty's Government the sentiments and feelings of those subjects, in respect to the Government of Lower Canada, may be reduced to a few prominent features that claim a serious consideration, and such order as may correct the errors and confusion (to say the least) that the opinions contained in that memoire, when fostered and pursued, cannot fail to produce.

The whole scope of this memoire appears, and repeated exertions in the Assembly show that the leaders in that body consider the administration of His Majesty's Government, and the policy of its measures, to pertain to them of right. That the exercise of any powers by the prerogative that is repugnant to their sense of those rights, must insure opposition and discontent; and that these will be generated by the Canadian people even into hatred; extended from the king's servants to the source of the power exercising such measures.

It betrays the most consummate ignorance of the rights of the Crown in the Government of a British colony. It assumes rights in the Legislative power the most dangerous to tranquil, constitutional, and good government. It exhibits libels the most detracting to the King's administration through all its various powers, and it avers falsehoods the most seditious that can promote the various ends contemplated,—that of transferring the Executive power and prerogative of the Crown to the Legislative, the representatives of the people.

The compilers of this revolutionary project would assume and believe that the Governor, representing the Crown, possessed the power and right to pass by or reject all the official duties of the King's servants as shackles upon his authority, that arose from ignorant or factious characters; and in place of those to take up the leaders in the House of Assembly, who could there secure a majority, and adopt their opinions and measures as being alone calculated for the interest of the Canadian people, and as the only means of obtaining places of profit, honor, and power, and the *means* avowedly suggested to those ends cannot escape notice.

In estimating the charges against the servants of Government, "*la minorité Anglaise*," it will be proper to see and consider in the Legislative proceedings what have been their opposition to the various measures pursued in the Assembly by the leaders of that House, for enlarging the rights of the Canadian people.

The foul aspersions against the King's servants for their supposed constant representations against the Canadian, or new subjects, as a disloyal people, must be referred to the jealousies of suspecting minds.

It will be seen, only in the evidence of facts, how far such representations, if made, could have afforded grounds of suspicion, that such representations had at *any* time been made against the zeal, fidelity and loyalty of the Canadian subjects, and the Records of His Majesty's Courts of Justice will prove no inconsiderable source of evidence, as well as to form a just opinion in respect to the character of the *new* as well as of the *old* subjects.

A BRIEF REVIEW OF THE POLITICAL STATE OF THE PROVINCE OF LOWER CANADA DURING THE LAST SEVEN YEARS, BY MR. RYLAND. MAY, 1814.

The Assembly of Lower Canada, ever since the establishment of the present constitution, has been endeavouring to acquire privileges beyond what was evidently intended by the Act of Parliament of the 31st of His Majesty to be given to that body; but the disorganizing tendency of these attempts did not excite the particular attention of the Provincial Government till towards the beginning of the year 1807, when a party was formed under the auspices of a few individuals of desperate fortunes, which soon obtained a preponderating influence in the Assembly.

Subscriptions were entered into for the establishment of a press, and a paper intituled "*Le Canadien*" was published weekly, in French, at a very low price, and circulated (in many instances gratuitously) throughout the Province. The chief object of this paper, though concealed under frequent professions of loyalty and devotion to His Majesty's person and Government, was to vilify and bring into contempt the King's Representative; to persuade the mass of the people, that the Assembly was superior to, and independent of, the other branches of the Legislature, and to excite in the minds of the *French* Canadians the bitterest enmity against the *English* part of the community.

With a view to try how far they would be permitted to go, motions were frequently made, implying a right in the Assembly to superintend and control the Executive power, and more particularly to decide by their own resolves on the privileges to which the House might lay claim. The right of prohibiting, not only individuals, but certain classes of His Majesty's subjects from being elected Members of the Assembly, was attempted in the session of 1809, to be carried by a simple resolve of the House, and such was the nature of the proceedings on the occasion, that the Governor, with the unanimous advice of the Executive Council, dissolved the Provincial Parliament, and issued writs for a new Assembly.

By the time of the general election, however, the influence obtained by the democratic party, through the means

of the paper above mentioned, became so powerful as to procure even a more decided majority in the House than it had before, and the unconstitutional proceedings of the Assembly being renewed with increased violence, in the ensuing session, the Governor found it expedient, after two Bills only had been passed, again to have recourse to a dissolution, in the spring of the year 1810.

It is to be remarked that, in the same session of 1810, a resolve was proposed and carried by the leading democratic member, "That the House of Assembly ought to vote, during that session, the necessary sums for defraying the civil expenses of the Government of the Province." This was followed up by separate addresses "to the King, to the Lords spiritual and temporal, and to the *commons of Great Britain* 'in Parliament assembled,' declaring the intention of the Assembly *to take upon itself* to pay the civil expenditure of the Provincial Government."

The real motive for this measure was too obvious to escape the attention of the most superficial observer. Indeed the party did not hesitate to boast to their adherents out of doors, that after having once obtained the right of managing the civil expenditure, their intention was to reduce the salaries of the public officers to such a standard as they should think proper, by which means they evidently hoped to obtain an unlimited control over the Executive power.

This situation of things induced Sir James Craig to make a special representation to the Earl of Liverpool of the State of the Province, and to send home his Secretary (Mr. Ryland) with his despatches, "in order that he might be at hand to afford every explanation, and every information in his power, that His Majesty's Ministers might require concerning the several objects on which the Governor had written."

Several important measures were at the same time suggested to the Secretary of State as being calculated to strengthen the Executive Government in the Province of Lower Canada, *to augment considerably the territorial revenue of the Crown*, and to put an effectual check upon the disorganizing projects of the Assembly. Some of these would have required the interference of the Imperial

Parliament; others, which were also of great moment, needed only the sanction of His Majesty to be carried into immediate effect; but the distressing event of His Majesty's indisposition, which occurred within a short time after Mr. Ryland's arrival in England, was an insurmountable obstacle to the accomplishment of the measures proposed.

Under these discouraging circumstances, Sir James Craig met the newly elected Assembly at the close of the year 1810. In the preceding month of March, four persons, three of whom were then Members of the Assembly, had been committed to prison in Quebec by virtue of an Executive Council warrant (under authority of the Act for the better preservation of His Majesty's Government,) they being charged on oath with having been guilty of treasonable practices. Two of those persons were again elected; one of them, Mr. Bedard, was still under confinement, and it was not supposed that the Governor could obtain a renewal of the Act above mentioned. He hesitated not, however, to recommend its renewal in his speech at the opening of the session. The Assembly in their address manifested a reluctance to the measure; but the Bill, being first passed in the Legislative Council, obtained the unanimous concurrence of the Assembly on the twelfth day of the session.

An attempt was afterwards made to obtain the release of Mr. Bedard, and an address to the Governor on the subject was proposed and voted, and immediately passed over, the House proceeding to the orders of the day.

From this period the most perfect unanimity prevailed between the several branches of the Provincial Legislature, and all attempts on the part of the Assembly to violate the privileges of the subject, or entrench on the prerogatives of the Crown, ceased. Such was the effect produced by the firmness and capacity of the person who at that time administered the Government of Lower Canada! The demagogues who, during the space of three years, had convulsed the Province by their incendiary speeches and publications were heard of no more. Those persons whose attachment to the Government and the Constitution had been shaken by the false reasonings of the "Canadien" became sensible of their error; and it may truly be said,

that at the moment when the ill-health of Sir James Craig compelled him to relinquish the Government, and return to England, the political state and disposition of the Colony were such as every loyal subject could desire; and in this state and disposition was the Province found by his successor, Sir George Prevost.

Previous to his arrival in Canada this officer had received the fullest information of all the steps that had been taken by his predecessor, and of all the measures that had been recommended by him to His Majesty's Ministers for the purpose of counteracting the proceedings of the Assembly, and for securing to the Crown a greater degree of influence in the Province. But, unhappily, there existed in the mind of Sir George Prevost a rooted prejudice against the late Governor in Chief; and there is but too much reason to believe that he entered on the administration of this Government with no unwillingness to throw discredit on the memory of the latter, and with a determination to pursue, at all hazards, a line of politics diametrically opposite in every respect.

Within a few weeks after his arrival in Canada, Sir George Prevost took upon himself to recommend to His Majesty's Ministers the new modelling of the Executive Council. By the Royal Instructions of 1791, the number of members (exclusive of the Lord Bishop of Quebec, who receives no salary,) is limited to nine, to whom three honorary members were added in the year 1794, on the recommendation of Lord Dorchester, to supply the places of those who reside in the District of Montreal. By the same Instructions it is ordered, that, in case of a vacancy, the Governor shall transmit, through the medium of the Secretary of State, "the names and characters of such three persons as he may esteem the best qualified for fulfilling the trust of such Executive Councillor,"—a proof that great precaution and deliberation are judged necessary in the choice of persons who are thus called upon to advise the Crown! On the present occasion, however, no less than seven additional persons were recommended for seats in the Executive Council, before the Governor had been long enough in the Province to acquire an accurate knowledge of the talents and character of any one of them!

—a measure which naturally impressed the public with a belief that he was determined to put down the Council which, under the most trying circumstances, had supported his predecessor, and that he hoped, by new modelling the Board, to render it subservient to that line of politics which he himself had resolved to pursue; and there is no doubt but this measure greatly encouraged the party in the Assembly, which, under the preceding administration, had disturbed the tranquillity of the Province; a more direct encouragement, however, was held out by the Governor's seizing with avidity the first occasion to prefer to places of trust and emolument those individuals who had been at the head of the party above mentioned.

In the month of February, 1812, Sir George Prevost first met the Provincial Parliament. He so far followed the footsteps of Sir James Craig on this occasion as to recommend a renewal of the temporary Act for the better preservation of His Majesty's Government; but though the maligners of the latter were the avowed admirers of the new Governor, they manifested no disposition to acquiesce in the measure he had recommended, and the Bill, after being first passed in the Legislative Council, was finally lost in the Assembly by the introduction of amendments tending essentially to alter its nature and effect.

In consequence of the declaration of war on the part of the American Government, an extraordinary session of the Provincial Legislature was held in the month of July, 1812, and a law was then passed, on grounds suggested by the Executive Council, authorising the issue of a certain quantity of Army Bills as a circulating medium to supply the want of specie, and making the same a legal tender. It will not appear surprising that the Assembly readily gave in to a measure which, by placing the public purse in a certain degree under their control, greatly facilitated the accomplishment of the projects so long contemplated by certain leaders in that House.

In this session the Governor sent to both Houses a message declaring the authority vested in him by the King's Commission, under certain circumstances, to proclaim Martial Law, and proposing to them to pass an Act to modify that power. Of this extraordinary message the

Assembly took little notice at the time, but the Legislative Council returned a respectful answer expressive of their readiness to concur in the measure proposed.

As soon as the Act to authorise the circulation of Army Bills was passed, the Provincial Parliament was prorogued; and a short time previous to the next meeting, at the close of the year 1812, Mr. Bedard, the gentleman before mentioned, whose publications under the preceding administration had been presented by the Grand Juries of Quebec and Montreal as seditious libels, was promoted by Sir George Prevost to a seat on the Bench, being appointed Provincial Judge for the District of Three Rivers, and thus associated with the Chief Justice of the Province, who, in his capacity of an Executive Councillor, had, in the year 1810, concurred in his commitment to the gaol of Quebec, on a charge of treasonable practices! A more plain and palpable indication of the system upon which Sir George Prevost intended to conduct the Government could not be given, and it soon became evident that it was perfectly well understood by all those restless spirits who aimed at place and preferment through faction, turbulence and disorder.

The Governor having, in his speech at the opening of this session, merely expressed his satisfaction at not having been under the necessity of having recourse to Martial Law, his message relative to that subject, in the preceding session, was now taken into consideration by the Assembly, and a string of violent and insulting resolutions, contumeliously declaring that he possessed no authority to proclaim Martial Law, was passed upon it. Every project for encreasing the privileges of the Assembly, at the expense of the other branches of the Legislature, was renewed. Occasion was taken to command the attendance of the officers of the Legislative Council at the bar of the Assembly, without leave being previously asked for the purpose; and though this order was, in the first instance resisted, it was, upon a repetition, acquiesced in (and as was believed) through the private interference of the Governor himself, five members only (the Lord Bishop of Quebec being absent through indisposition) adhered to the preceding unanimous resolve

on this subject, and protested against this gross violation of the privileges of the House.

Another measure of great importance, as connected with the system of colonial politics, deserves to be particularly noticed. Previous to his arrival in Canada, Sir George Prevost had been fully informed of all that had taken place under the administration of the two preceding Governors, relative to the assumption, on the part of the Crown, of the patronage of the Romish Church. He knew that the late Romish Bishop, Monsieur Denaut, had, through Lieutenant Governor Milnes, transmitted a petition to the King, submitting himself and his Clergy to His Majesty's pleasure; he knew that Sir James Craig, when he sent home his Secretary, particularly instructed him to press this important matter upon the attention of His Majesty's Ministers, and that the Law officers of the Crown, to whom the question was referred, had unanimously reported their opinion that the right of presentation to Roman Catholic Church livings in Lower Canada is legally vested in His Majesty. Sir George Prevost was moreover fully apprized of the character of Bishop Denaut's successor; and it was very certain that, by adding to the power which this prelate already assumed, an income which might have been made the price of his relinquishing that power, a greater degree of influence in the Province would be secured to him than His Majesty's Representative could ever hope to possess.

There seems, however, to have been in the mind of the Governor one predominant desire, that of acquiring, by every species of concession, a certain share of personal popularity, without a prospect of any determinate or solid advantage arising therefrom, to His Majesty's interests. He recommended, therefore, that the allowance granted to Mr. Plessis, as Superintendent of the Romish Church in the Canadas, should be raised from two hundred to one thousand pounds sterling a year, but it does not appear that he stipulated for the relinquishment of any one of that prelate's illegally assumed powers, in return for so liberal a boon!

On receiving from the Governor a communication of the Secretary of State's letter, authorising the above allowance,

Mr. Plessis availed himself of this opportunity to claim that, in the warrant to be issued for the payment of it, the appellation of Superintendent of the Romish Church "should be exchanged for that of *Roman Catholic Bishop of Quebec*," a title which the Provincial Government had hitherto steadily refused such a recognition of, but which the present Governor hesitated not to give, in violation of the King's Instructions, and in direct opposition to His Majesty's Letters Patent establishing the See of Quebec.

From this period the machinery by which Sir George Prevost flattered himself he should be enabled to guide the helm of the Provincial Government may be considered as complete. In compliance with his recommendation, an unprecedented addition had been made both to the Legislative and Executive Councils, so that these bodies could no longer be said to be the same that supported the measures of his predecessor. The persons whom the latter had removed from office, or punished as being promoters of sedition, were, with only one exception (Mr. Stuart,) re-established or selected for places of trust and emolument, and to these chiefly did the Governor look for advice, treating with marked neglect those servants of the Crown, who had hitherto been regarded as the principal support of the Provincial Government.

In return for the solid favors conferred upon him, the Romish Bishop bestirred himself to procure a public address to be presented to the Governor, in the month of December, 1813, on his arrival at Quebec from Montreal. The Provincial Parliament meeting soon afterwards, another address was obtained from the Assembly, in which they grossly censured the late, and applauded the present Governor of the Province, concluding, *as the speech from the Throne led them to do*, by expressing an earnest wish that the period for His Excellency's return to Europe might be very remote.

It will be proper now to review the proceedings of an Assembly, meeting, as the majority conceived, under the most auspicious circumstances, and conducted by a party to which the Governor of the Province had openly attached himself. Assured of such powerful support, this faction proceeded, without loss of time, to execute the long con-

templated scheme of subverting the constitution, and bringing into contempt all the established authorities of the Colonial Government.

It is known that, about this time, Mr. Bedard, the Judge, came to Quebec for the purpose of advising the measures to be pursued, but, not having a seat in the Assembly, the principal management was left to an Anglo American barrister named Stuart, who had been a pupil of the present Chief Justice when he held the situation of Attorney General. This gentleman obtained from Lieut. Governor Milnes the appointment of Solicitor General, from which he was dismissed by Sir James Craig, in consequence of his pursuing a line of conduct which the latter considered utterly inconsistent with his duty as a servant of the Crown.

The first measure of importance brought forward by the party was "A Bill for disqualifying the Chief Justice, and Justices of the Court of King's Bench, from being summoned to the Legislative Council, or sitting or voting therein." This Bill, as must have been foreseen, was thrown out by the Legislative Council without obtaining a second reading; but it served a purpose the party had in view, which was, to impress the mass of the people with a disrespectful idea of the Judges, preparatory to a grand attack upon the whole judicature of the Province, which immediately followed.

This paper would be extended to too great a length by entering minutely into the proceedings of the Assembly during this session. The Journals both of the Legislative Council and of the Assembly are in the press, and, when published, they will hardly fail to open the eyes of all men to the alarming situation in which the civil administration of Lower Canada is now placed.

On the 2nd February, a Bill of a most insidious nature was sent up to the Legislative Council, intituled, "An Act for the more effectual establishment of Schools for teaching of the first rudiments of education in the country parts of this Province." This Bill, had it passed into a law, would have completely set aside the very important Act of the 41st of His Majesty, intituled, "An Act for the establishment of Free Schools, and the advancement of learning, &c." It would have transferred to elective corporate bodies, to

be established in every parish throughout the Province, the powers that are granted by the last mentioned Act to the Crown; it would have enabled those corporations to hold property in mortmain to the value (collectively) of upwards of nine hundred thousand pounds, and have proved the most effectual means for insurrection and revolution, that the minds of its authors could have devised; yet was the Governor heard to express a desire that this Bill might pass the Legislative Council!

On the 10th of February, a Bill was sent up to the Legislative Council, intituled, "An Act for appointing an Agent in the United Kingdom of Great Britain and Ireland," and Mr. Bedard (the person before noticed as having been under confinement on a charge of treasonable practices,) was named in the Bill as such Agent, and a salary assigned to him of £2000 per annum.

Early in the session a Committee had been appointed, "to consider if it were not fit and expedient humbly to address His Royal Highness the Prince Regent on the state of the Province," and the Bill for the appointment of an Agent having been rejected by the Legislative Council, this address (in which were introduced expressions of great personal regard for the Governor) was now voted, together with one to His Excellency, praying that he would be pleased to transmit the Address to His Royal Highness by such messenger as he should see fit to appoint for the purpose, and to advance a sum not exceeding one thousand pounds to defray the expense, &c., which the Assembly pledged itself to make good. To this Address the Governor replied verbally "that he would accede to the request of the House by appointing a proper person or persons to present the said Address to His Royal Highness the Prince Regent."

Thus encouraged the Assembly voted a second Address to the Governor, praying that he "would order an advance not exceeding one thousand pounds, in addition to the sum already voted, provided he should appoint *two* persons to present the Address. To which the Governor replied, that he would accede to the request as soon as there was an appropriation for the service mentioned in the Address," and a message was afterwards sent by His Excellency to the Assembly to the same purport.

These proceedings having in the meanwhile been taken into consideration by the Legislative Council as encouraging an attempt on the part of the Assembly to appoint an Agent for the Province, without the concurrence of the Council, several resolves were passed thereon concluding with the following viz :

“Resolved, that this House views with equal astonishment and concern the acquiescence of His Excellency the Governor in Chief in the vote of the Assembly, which requests him to appoint a messenger for the purpose above mentioned ; an acquiescence which they cannot but consider to be an unequivocal abandonment of the Rights of this House, and a fatal dereliction of the first principles of the constitution.”

The appropriation of two thousand pounds was afterwards introduced into a Bill intituled “An Act further to continue for a limited time the levying the duties imposed by the Act of the 51st of His Majesty, and for other purposes,” which Bill was amended in the Council by striking out that appropriation, and so returned to the Assembly, which refused to pass it as amended.

It had long been a favorite project with the Assembly to interfere with the salaries, and to lower the consequence of persons holding civil appointments under the Crown, and a Bill was now, for the second time, brought forward for this purpose, by which Bill the salaries and allowances from Government were to be diminished in the following proportions, viz : £15 per cent. on £1500 and upwards, £12 per cent. on £1000 and upwards, £10 per cent on £500 and upwards, and £5 per cent on £250 and upwards, per annum.

To give this measure an air of plausibility the Bill was intituled “An Act to grant to His Majesty a duty on the income arising from civil offices, and on pensions to be applied to the defence of the Province in the present war with the United States of America.”

It is to be observed, that the permanent revenues of the Province are not adequate to the payment of the civil list, and that the deficiency is made good from the military chest, it may therefore be said, that by lowering the salaries of the officers of Government so much less money would be

required from the exchequer of Great Britain; but this could not fairly be called a Provincial Aid towards carrying on the war. The whole saving under this Act would not have exceeded £2500 per annum; but those officers of Government who now have the utmost difficulty to subsist on their salaries would by this measure have been reduced to the extreme of distress. A special exemption was made in the Bill in favor of the Governor or person administering the Government, and also of officers holding commissions or staff appointments in the Militia, (as the major part of the framers of the Bill did,) and yet the pay and allowances of the field and staff officers of the Militia are even on a more advantageous footing than those of the regular forces, and greatly exceed in value the generality of the appointments under the Civil Government. This Bill was of course rejected by the Legislative Council as it had been in the preceding session.

Thus frustrated in various particulars the Assembly proceeded with vigor to the accomplishment of their principal design, the crying down the several Courts of Justice, and, finally, voting articles of impeachment against the Chief Justice of the Province and the Chief Justice of the Court of King's Bench for the District of Montreal.

A violent and most libelous Address was voted to His Royal Highness the Prince Regent, accusing those Judges by name, of treason, perjury and oppression, and praying that they might be dismissed from their offices. This Address together with one to the Governor in Chief, praying that His Excellency would be pleased immediately to suspend the said Chief Justices; also the resolves of the Assembly, in which the whole of the Judges of the Court of Appeals, and Courts of King's Bench, collectively (with the exception of Mr. Bedard) were criminated and charged with having exercised unconstitutional and illegal powers, were ordered to be published in a separate pamphlet, and copies were furnished for the Provincial newspapers, by which means a strong impression was made upon all classes of people throughout the Province to the unspeakable detriment of the Judges in the public opinion, and of the administration of Justice in the King's Court—yet had there not been any evidence before the Assembly, beyond

what was contained in the established rules of practice, nor had any complaint whatsoever been preferred by the public against those rules or against the Judges individually or collectively !

It is deserving of notice, that, during the whole of the session, seldom more than half the number of members of which the House is composed attended ; and amongst these, the most respectable, including the English members, finding themselves outnumbered, gave way to the torrent, and seldom spoke or voted. All men were astonished that no steps were taken by the King's Representative to check these revolutionary proceedings, more especially as the principal movers of them were persons whom he himself had recently appointed to offices under the Crown. But it is *now* suggested that it was necessary to give way to the Assembly, lest the Act to authorise the further issue of Army Bills should be lost ; an Act containing clauses unconstitutional and unprecedented, but in the formation of which it appears that (after all his sacrifices) the Governor had not sufficient influence to guide and direct the House ! These events may possibly lead His Majesty's Ministers to consider whether it would not be advisable to set aside the Provincial Statute by an Act of the Imperial Parliament, pledging the faith of Government as a security for the redemption of such Army Bills as the Commander of the Forces may find it necessary to issue for the public service ; and there can be no doubt but such an Act would be far more satisfactory to the inhabitants of these Provinces, and far more advantageous to the interests of the Crown than that which has now been obtained at the risk of so much future mischief.

It will be seen by the Governor's speech at the close of the session into how much difficulty and discredit he had brought himself. In the course of their proceedings both Houses had passed resolves severely animadverting on his conduct ; and he now availed himself of the opportunity publicly to reprimand both the Houses in his turn !

A few days after the prorogation, the Provincial Parliament (having completed the term of four years) was dissolved, and Writs were immediately issued for a general election.

Thus has ended an Assembly which was called together for the first time by Sir J. Craig, which in its first session, and under what were then represented as very irritating circumstances, was (after manifesting some symptoms of dissatisfaction) induced to receive from the Legislative Council, and unanimously pass a Bill for the suspension of the Habeas Corpus Act, and which from that period to the end of their Session cordially concurred in every measure that could tend to promote the peace, happiness and prosperity of the Province!

A few words will suffice with respect to the future prospects of this Colony. Immediately after the prorogation the most respectable English members publicly declared their determination not to offer themselves as candidates at the ensuing general election. That election is now over, and the returns are precisely such as were expected under the impression produced throughout the Province by the proceedings of the late Assembly. From the time that the Assembly began its attacks on the Courts of Justice, the licentiousness of a press recently established at Montreal (from whence papers in the French and English languages are published weekly) has appeared to have no bounds; every odium that can be imagined is attempted in these publications to be thrown on the memory of the late Governor in Chief, on the principal officers of Government, and on the Legislative Council; and the poison thus distributed is left to work its effect on the mass of the people without any check or interference on the part of the Crown: thus is the disorganizing party encouraged to proceed; thus is it led to hope, that any future Governor may be deterred from exercising that vigor which the preservation of His Majesty's Government may require.

The new Assembly will have in it all that was bad in the last, together with a great accession of the most violent, unprincipled and worthless characters in the Colony, scarcely a man of respectability would stand forward as a candidate at the late general election, and the British and commercial interests may now be considered as excluded from the Assembly. Still however the country is not lost. It is not yet in a state of insurrection against His Majesty's Government, it may still be preserved to the

Crown without having recourse to the bayonet. But the remedy must be immediate.

Should His Royal Highness the Prince Regent be pleased to entrust the administration of this Government to a man of high rank, of known and established character for prudence, firmness, dignity and ability; a man accustomed to Parliamentary business, not to be terrified by the clamours of the ignorant, nor appalled by the projects of the vicious: such a man would readily find means to convince the Assembly of its insignificance when disposed to do mischief; and, by making it manifest that all his measures had for their object the public good, he could not fail of restoring to the Province a state of tranquillity and happiness.

Quebec, 12th May, 1814.

H. W. R.

MR. RYLAND TO MR. AMIOT.*

BEAUPORT, 10th Sept., 1817.

MY DEAR SIR,—Your letters of the 5th and 7th July reached me yesterday, and relieved my mind from a considerable degree of anxiety, for I will acknowledge to you that I generally write in such haste, and give my opinions on political characters and events so freely and (you will say) so *decidedly*, that, unless I had reason to place the most implicit confidence in your discretion, my correspondence might be turned infinitely to my disadvantage, particularly were the remarks it contains to find their way back to this country.

There are, however, in this Province, many persons of the first respectability, whose opinions relative to the subjects of which my letters sometimes treat, perfectly accord with mine; and in offering you my sentiments as I do from time to time, I can truly say that I am influenced by a

* This gentleman was an official in the Colonial Office, and for many years held as a sinecure the office of Provincial Secretary for Lower Canada, which he never once visited, the duties being performed by a *locum tenens*. He was finally pensioned off at £400 a year, with the payment of which the Province was saddled to the time of his decease.

sincere and upright wish to see such measures adopted as would best promote the public good. Thus much respecting this subject shall suffice for the present.

Sir John* is certainly about to make a great and hazardous political speculation. My experience, and my knowledge of characters, in this colony, would never have led me to advise the measures he is pursuing, and above all things I would have avoided augmenting the Executive Council beyond the number at which it is established by the Royal instructions. Five really intelligent and upright men there, with four of more moderate talents but well born and well disposed, are as many as can possibly be wanted; but, from the choice which of late years has been made, every man in the colony be his birth, habits and connexions, (and I may add *principles*,) what they may, seems to have an equal chance of obtaining a situation which, in sound policy, ought to be reserved for the most intelligent and most respectable members of the community.

With respect to the Legislative Council, it may be argued, that as you have a *mob* in the Lower House you ought also to have one in the Upper to contend with them. Well, be it so. It is a trial, and amongst the new members there are several of respectable character and talents, who, it is to be hoped, will serve as a counterpoise to those of a different description, though I fear the latter will be the most numerous.

J. T.† still avoids giving me a proposition in writing as he intimated he would, and I know not how to bring him into action. When one speaks to him of business he seems to be taken all aback, and does not appear to understand one, yet I think he is as well in health as he has been for some years past. He had your warrant, and of course must have remitted your salary some time since, and, I should hope, a good proportion of fees with it.

I am sadly worried in my department as Clerk of the Executive Council, by the excessive and continued increase of public business, especially in that branch which relates to the audit of the public accounts. I could find constant

* Sir John C. Sherbrooke, the Governor in Chief.

† Taylor, who was Mr. Amiot's *locum tenens* for several years.

employment for at least *three* copying clerks, and I am allowed but *one*, and for this only a salary of one hundred pounds a year, so that I am obliged to make a sacrifice of my own son to this cursed office, and to fag myself till I have no spirits left. Yet is there such an outcry about public expense that I scarcely see a chance of obtaining relief, though I ask for no additional allowance either for my son or myself, but only that degree of assistance with regard to copying clerks, which a due execution of the duties of my office renders indispensably necessary.

You certainly acted wisely in not committing yourself so far as to ask for an augmentation of salary, but it is a very different thing to solicit additional assistance in an office where the public business is continually increasing.

H. W. RYLAND.

DESPATCH FROM LORD BATHURST TO SIR JOHN C. SHERBROOKE, G. C. B., GOVERNOR IN CHIEF, RELATIVE TO THE IMPEACHMENT OF MR. JUSTICE FOUCHER.

DOWNING STREET, *5th July*, 1817.

SIR,—I have not failed to bring under consideration of the Prince Regent your despatches of the dates and numbers specified in the margin, in which you communicate the proceedings of the House of Assembly against Louis C. Foucher, Esq., one of the Justices of the Court of King's Bench, the address which the Legislative Council had in consequence of his impeachment thought it necessary to submit to His Royal Highness, and the anxiety of Mr. Foucher, that the charges against him should be brought to an early decision.

In considering those communications His Royal Highness has been most anxious to devise some mode of investigating the conduct of Mr. Foucher. which, while it shall insure a correct adjudication of the charges brought against him, shall be as little burthensome as possible either to the party accused or to those by whom the accusation is preferred.

His Royal Highness acquiesces entirely in the sentiments expressed by the Legislative Council as to the inconvenience

of conducting such an investigation in this country, since such a measure would in any case entail a heavy expense most unjust to the parties if it be to be defrayed by them, and most burthensome to the public if ultimately charged to the Colony.

I am therefore to signify to you the pleasure of His Royal Highness that in this, and in all similar cases of impeachment by the Legislative Assembly, the adjudication of the charges preferred against the party accused shall be left to the Legislative Council.

Under such an arrangement His Royal Highness feels no disposition to question the right of the Assembly to submit articles of impeachment against any individual whose public conduct may appear to them deserving of animadversion, nor does His Royal Highness see any objection in such a case to a compliance with the address of the Assembly for the suspension of the obnoxious individual, since the means of ascertaining the validity of the charges being at hand, the party accused can sustain but little injury if innocent, and if ultimately pronounced to be guilty, the advantage of an immediate suspension is unquestionable.

You will therefore communicate to the House of Assembly, and to the Legislative Council the decision of His Royal Highness, and his confident expectation that they will each so discharge the important duties which will under this arrangement respectively devolve upon them as to give complete satisfaction to all classes of His Majesty's subjects.

I have the honor to be, &c.

BATHURST.

THE OPINION OF THE LAW OFFICERS UPON THE
REPORT IN COUNCIL RESPECTING THE TRIAL OF
MR. JUSTICE FOUCHER.

MAY IT PLEASE YOUR EXCELLENCY.

In obedience to the commands of Your Excellency we have taken into consideration the three points contained in the Report of His Majesty's Executive Council of this

Province, upon the despatch of Earl Bathurst, of the 5th July, respecting the impeachment of Mr. Justice Foucher.

First.—“Can or cannot, &c.”

Upon the first point we are of opinion that, as the general question contained in this point admits at least of considerable doubt, the safest course to be pursued will be to authorise the Legislative Council by commission to take cognizance of the articles of charge and impeachment prepared by the Assembly against Mr. Justice Foucher.

Second.—“If a commission be necessary, &c.”

Upon the second point we have the honor to submit to Your Excellency, that though by a clause contained in Your Excellency's commission it would appear that a power is given generally to Your Excellency, “with the advice of the Executive Council of the Province, to erect such Courts of justice within the Province, as Your Excellency and the Privy Council shall think necessary,” (subject only to the provisions contained in the Statute 31 Geo. 3, c. 31, and to any instructions which Your Excellency may receive under His Majesty's signet or sign manual, or by His Majesty's order in Council,) yet, in our humble opinion, it will be more expedient to issue a separate commission for this particular case.

Third.—“Must the commission, &c.”

Upon the third point, having taken into consideration the clause contained in Your Excellency's commission, to which we have already alluded, we have the honor to give it as our opinion, that a commission may legally issue under the great seal of the Province, for the purpose under consideration, and that such commission will be a due execution of the power vested in Your Excellency.

We have the honor to be,

&c., &c.

ANSWERS OF THE ATTORNEY AND SOLICITOR GENERAL TO THE FOLLOWING QUERIES FROM THE EXECUTIVE COUNCIL.

First.—Has the Legislative Council the native and inherent jurisdiction of the House of Lords, for the trial of impeachments by the Commons of Lower Canada?

Answer.

We are of opinion that the Legislative Council has not the native and inherent jurisdiction of the House of Lords, for the trial of impeachments by the Commons of Lower Canada.

Second.—Can the Crown, by commission, give to the Legislative Council the native and inherent jurisdiction of the House of Lords, so as thereby to enable each member to sit as judge both of law and fact?

Answer.

We are of opinion that the Crown, by commission, cannot give to the Legislative Council the native and inherent jurisdiction of the House of Lords, so as thereby to enable each member to sit as a judge both of law and fact.

N. F. UNIACKE,
Attorney General.

CHARLES MARSHALL,
Solicitor General.

Quebec, 1st December, 1817.

ANSWERS OF THE ADVOCATE GENERAL TO THE
QUESTIONS PROPOSED TO HIM BY A COMMITTEE
OF THE HONORABLE THE EXECUTIVE COUNCIL.

Question : Has the Legislative Council the native and inherent jurisdiction of the House of Lords, for the trial of impeachments by the Commons of Lower Canada?

Answer : The right in the Legislative Council to try must be coeval with that of the House of Assembly to impeach: the one, it would appear to me, is a necessary consequence, and cannot exist without the other; but, by the Constitutional Act (31 Geo. III., c. 31,) neither the one right nor the other is vested in those two branches. The right of impeachment, in the true and legal sense of the word, only exists in the Commons of the United Kingdom, and not in the Colonial Assembly. Any complaint, therefore, on the part of the Assembly, of improper conduct in any public officer, can only be by petition to the Throne, and the right to direct an investigation of the

subject matters of the complaint will be in the Crown ; but no *Court* can be created for the trial thereof, as such complaint cannot be deemed a legal accusation.

Question : Can the Crown, by commission, give to the Legislative Council the native and inherent jurisdiction of the House of Lords, so as thereby to enable each member to sit as a judge both of law and fact ?

Answer : It does not appear that the Crown can issue such a commission.

GEORGE PYKE,
Advocate General, L. C.

Quebec, 1st Dec., 1817.

OBSERVATIONS FAITES EN 1818, PAR L'HONORABLE
M. DEBARTZCH, RELATIVES AU DROIT QU'A LE CON-
SEIL LEGISLATIF DE JUGER DES ACCUSATIONS POR-
TEES PAR LA CHAMBRE D'ASSEMBLEE CONTRE DE
CERTAINS DELINQUANTS, ETC.

L'histoire de tous les pays nous apprend que le passage de l'autorité judiciaire d'une main à une autre, a toujours créé des sensations très vives. Nous ne devons donc pas être surpris ici, dans le cas actuel, où il s'agit non seulement d'un changement d'autorité, mais encore de quelque chose de plus, puisqu'il est vrai de dire qu'il faut dépouiller plusieurs individus d'un caractère d'impunité, dont ils ont joui depuis longtemps, dans toute sa plénitude, que ces individus fassent les plus grands efforts pour entraver l'usage d'un pouvoir dont le premier effet sera de les mettre sur un pied d'égalité avec tous les autres sujets de Sa Majesté, et dont la conséquence naturelle les rendra responsables, aux yeux du public, de leurs actions, de même qu'ils l'ont toujours été à ceux de la loi sagement entendu, en indiquant aux Communes de cette province, le seul Tribunal Constitutionnel où elles puissent les accuser pour y être jugés suivant les lois. Cela posé, je vais démontrer que, même d'après les lois positives, en force dans cette province, le Tribunal dont est question, est légal.

Par l'acte de 1774, il est établi que les lois criminelles d'Angleterre sont en force en cette province, et "qu'elles

seront observées comme loix, tant dans l'explication et *qualité du crime* que dans la manière de l'instruire et de le juger," en conséquence des peines et amendes qui sont par elles infligées. Voilà sans doute une autorité assez forte pour convaincre que tout l'ensemble du beau et sage système des loix criminelles d'Angleterre nous a été accordé.

Il ne me reste plus qu'à faire voir, à présent, qu'en même temps que cet acte a été amendé par celui de 1790, il y est identifié de manière qu'il forme la base de notre heureuse constitution; ce qui me sera fort facile, attendu que la chose est évidente par elle-même.

La nation anglaise, qui, comme le dit un auteur célèbre, ne fait des conquêtes que pour *partager la liberté dont elle jouit*, s'apercevant qu'elle n'avait point atteint ce but complètement, par le susdit acte de 1774, elle le rappela en autant seulement qu'il avait rapport à la nomination d'un conseil pour les affaires de la province de Québec, ou au pouvoir donné par le dit acte au dit Conseil, auquel elle substitua notre Parlement Provincial, pour nous assimiler à elle, en nous accordant, par une constitution parfaitement analogue à la sienne, tous les *privilèges et libertés* qui en découlent, et dont elle jouit sans aucune restriction quelconque. Si je passe à ce qu'on nomme en Angleterre, "the High Court of Parliament," la Haute Cour du Parlement, qui est définie par le Juge Blackstone, être la suprême du royaume, non seulement sous le rapport de statuer les lois, mais aussi pour l'exécution d'icelles, en traduisant devant elles les *grands et puissants délinquants*, par le moyen de l'accusation parlementaire, (in the method of parliamentary impeachment.) Néanmoins cette puissante cour n'eut point, comme nous le savons, un don de la prérogative royale, ni le résultat de la volonté des trois branches de parlement, manifestée par une loi positive: non, elle origine de la nécessité de la chose même. En effet, si cette cour devait son existence à une autorité quelconque, ce serait cette autorité et non cette cour qui serait suprême. Cela est si loin d'être le cas, que quoique nous ne trouvions pas de loi qui l'établisse, nous en trouvons cependant une qui statue "qu'aucun pardon, quoique passé sous le grand sceau, ne pourra être allégué contre une accusation portée par la chambre basse.

Je m'attends que ces gens qui voient tout à travers la prérogative vont me dire, "Vous n'êtes pas nation indépendante, pour jouir d'un privilège qui en est l'attribut ; il n'appartient qu'à la mère-patrie." Quoi ! ne faisons-nous pas partie de l'empire britannique, et en cette qualité n'avons-nous pas le droit incontestable de jouir de tous ses privilèges ? Oui, sans doute. Mais notre éloignement du siège du gouvernement de l'empire, et les difficultés qu'il y aurait par conséquent d'y faire connaître nos besoins, ont porté la mère-patrie à nous accorder une émanation de sa constitution, en nous constituant ses *mandataires*, en égard à nous seulement pour l'exercice de ce moyen admirable, qui, comme un auteur le remarque très judicieusement, "en écarter et punissant des ministres, ou *employés prévaricateurs*, apporte tout de suite le remède aux maux de l'état, et indique fortement les bornes où le pouvoir doit se renfermer, qui ôte le scandale du crime, et de l'autorité réunis, et qui tranquillise les peuples par un grand acte de justice."

Si, comme je crois l'avoir démontré, notre constitution est une émanation de celle de la mère-patrie, pourquoi n'en concluons nous pas que tout ce qui est chez elle considéré comme étant essentiel à l'existence de sa constitution, ne le serait pas également parmi nous, en autant que cela ne repugne pas à l'esprit de la nôtre.

Pourquoi, ce qui est reconnu faire partie intégrante de l'une, et sans quoi elle serait illusoire, ne le serait-il pas de l'autre d'après les mêmes raisons d'efficacité. Je laisse à ceux qui sont plus versé que moi dans *les secrets mystérieux de ces intrigues*, qui ont que trop malheureusement influencé nos différentes administrations, depuis 1774 jusqu'à l'année dernière, d'en donner les raisons. Car, pour moi, qui crois que dans une colonie dont la constitution met dans les mains des colons le pouvoir de faire des loix, qu'il est de l'intérêt immédiat de la mère-patrie de soumettre l'administration de sa colonie au frein salutaire que la législature saura lui imposer chaque fois qu'elle voudra prendre pour mesure de sa conduite une règle qui n'aura pas pour base le bonheur de tous, je ne puis concevoir qu'il y est en cette province des gens assez aveuglés par les préjugés, ou par l'intérêt personnel pour soutenir une semblable doctrine.

Il est une maxime reçue en Angleterre, à la bonne exécution de laquelle la nation attache la plus grande importance, qui est que la prérogative royale dérive des loix, et non ces derniers d'elles. Delolme dit, "que le roi est chargé de l'administration publique, il n'est que magistrat, et les loix, soit celles qui existait avant lui, soit celles auxquelles par son assentiment il a donné l'existence, doivent diriger sa conduite, et l'obligent aussi bien que ses sujets." Or comme toutes les loix criminelles d'Angleterre sont en force ici tel que je l'ai démontré, et que le roi a permis en donnant son assentiment à l'acte de 1790, qu'une constitution en imitation de celle qui existe en Angleterre nous fut accordée sous les exceptions y contenues, lesquelles ont pour but des objets entièrement étrangers à celui dont il est question ; il s'ensuit donc, que la prérogative royale a été exercée, et qu'il serait absurde de la faire agir maintenant d'une manière subversive des principes sur lesquels elle repose. Donc, que c'est devant le Conseil Législatif que la loi indique aux Communes de cette province de porter leurs accusations (impeachment,) c'est-à-dire devant des juges qui par leur situation sont censés, d'un côté, être indépendants, et qui, de l'autre, ont leur réputation à soutenir dans cette noble fonction, où ils ont tous leurs compatriotes pour spectateurs.

Si d'un côté le roi est le chef des tribunaux, de l'autre nous voyons qu'il ne lui est pas permis de rien changer aux maximes et aux peines que la loi ou l'usage ont conservées, cependant on ose maintenir ici qu'un tribunal qui existe par une loi positive, confirmée par l'usage immémorial que la mère-patrie a fait, peut être converti par le moyen de la prérogative royale, en une cour composée de commissaires nommés à volonté. Pourquoi dit-on, depuis l'établissement légal d'un tribunal, nous n'en avons pas fait usage ? Pourquoi le Conseil Législatif, qui avait seul le droit d'en faire usage, soit pour un motif soit pour un autre, a paru douter de son pouvoir ? Peut-on supposer un instant que le non usage d'un droit dont l'essence est d'être imprescriptible, pourrait être une cause suffisante pour l'anéantir ? Peut-on, dis-je, supposer que l'ignorance des mandataires publics à l'égard des privilèges dont ils sont revêtus pour promouvoir le bonheur de l'état, pourrait les anéantir ? Non,

sans doute, de semblables raisonnements répugnent trop à la raison et aux principes de notre constitution pour être admis par quiconque n'est pas sous l'influence funeste d'anciens préjugés fortifiés par l'empire de l'habitude. Car aux yeux de quiconque qui a l'avantage de ne sentir d'autre influence que celle que l'amour de son pays lui inspire, la *réponse* de Son Altesse Royale le Prince Régent n'est qu'explication de l'acte constitutionnel, qui avait été mal entendu jusqu'à ce moment là en cette province; et de laquelle *réponse*, selon mon humble opinion on ne peut tirer des conséquences qui lui seraient diametralement opposés, sans justement encourir le déplaisir de Son Altesse Royale le Prince Régent, pour avoir osé donner à sa réponse une interprétation forcée et dangereuse dans ses suites.

P. D. DEBARTZCH.

LETTERS AND DOCUMENTS RELATIVE TO THE
IMPEACHMENT OF MR. JUSTICE FOUCHER.

QUEBEC, 19th November, 1817.

SIR,—The conversation which Your Excellency allowed me the honor to have with you yesterday, respecting the mode in which it may be most advisable to carry into execution, the instructions contained in Lord Bathurst's despatch of the 5th July last, strongly impels me, *as a Member of the Legislative Council*, to submit to Your Excellency in writing the grounds on which the opinion I then took the liberty to offer on this subject are founded.

An additional motive with me for so doing is, the opportunity which afterwards occurred of hearing the matter debated, and of reading with attention the despatch to which I refer. Previously to this opportunity I confess I had only a very imperfect recollection of the substance of that letter, having read it but once, and then very hastily, and I trust Your Excellency will not accuse me of presumption if I add, that, from the debate of yesterday and from a mature consideration of the despatch, I am more than ever confirmed in my opinion, that the advice given to you to convey a Judicial Power to the Legislative Council by *commission* is founded in error.

The case appears to me to be simply this: the House of Assembly by dint of perseverance, and a gradual exercise of privilege during a period of six and twenty years, hath at length acquired for itself some of the most important rights and privileges that attach to the House of Commons of the Imperial Parliament. At the head of these is the very important one of preferring articles of impeachment against such public officers of the Crown in this Colony as they may deem to be deserving of punishment or removal from office. To counterbalance this influential privilege, to preserve the Upper House of the Provincial Legislature from falling a prey to the Lower, and to secure to the servants of the Crown every constitutional protection, the Prince Regent, upon an address from the Legislative Council, has been pleased to dispense with the Royal prerogative in favor of that body, and to instruct Your Excellency through the Secretary of State, to inform both Houses of the Provincial Parliament, that in the case of Mr. Justice Foucher, "*and in all similar cases of impeachment by the Assembly the adjudication of the charges preferred against the party accused shall be left to the Legislative Council;*" adding as a reason for this concession that "the party accused can sustain but little injury from a temporary suspension, and if ultimately pronounced guilty the advantage of an immediate suspension is unquestionable."

The despatch of the Earl Bathurst on this subject concludes as follows: "you will therefore communicate to the House of Assembly and to the Legislative Council the decision of His Royal Highness, and his confident expectation that they will each so discharge the important duties which will under this *arrangement* respectively devolve upon them as to give complete satisfaction to all classes of His Majesty's subjects in the Province."

By this well considered and judicious despatch, as it now appears to me, I humbly conceive that no other power or privilege was intended to be conveyed to the Legislative Council than that of sitting as the *Grand Jurors of the Province*, upon accusations brought by the Assembly against the public servants of the Crown, and that if the charges brought by the Lower House were considered by

the Council as valid, His Majesty would then exercise the Royal prerogative, either by suspending from office or dismissing from his service the party accused.

This, Sir, appears to me the utmost that is contemplated in the despatch to Your Excellency, and I am firmly of opinion that a communication of *the substance of that despatch by a solemn message to both Houses of the Provincial Parliament* would be the utmost that either House could reasonably require to enable them to proceed to a final adjudication, (or, at least, as far as the Crown intends they should proceed,) upon accusations preferred against individuals by the Assembly.

I confess I was utterly astonished at the line of argument adopted before Your Excellency yesterday for the purpose of forcing an analogy between the Court of the Lord High Steward of England and that which, under authority of the above despatch, it is proposed to establish here.

If I mistake not, the High Court of Parliament above mentioned takes cognizance only of crimes committed by *Peers of the realm*, upon indictments previously found in the inferior Courts. But whether this be so or not, I respectfully contend that Your Excellency is not empowered, either by your commission or instructions, or by the statutes of the 14th or 31st of the King, to constitute and establish any tribunal but for the trial of offences recognized as such by Statute or Common Law. If those of which Mr. Justice Foucher stands accused are of this description, the ordinary tribunals of the country are competent to take cognizance of, and to *inflict punishment* for them.

I confess I cannot see the force of one particular argument which has been used on this occasion, viz: "that, as the Legislative Council cannot pretend to a *prescriptive* right, or to a right founded on *inheritance*, to sit as a High Court of Parliament, therefore the authority to sit as a Court of Inquiry (which in my humble opinion is the utmost that the despatch contemplates) must be conveyed by an instrument under the great seal."

The King has reserved to himself the power of dismissing at his pleasure any provincial servant of the Crown, and

the Prince Regent has now thought fit to declare that in certain cases where such servants are accused or impeached by the Assembly of this Province, he will not inflict punishment unless the Legislative Council are made parties to the accusation, and concur in adjudging the accused to be deserving of it.

I could say much more on this subject, but I fear I have already trespassed too far on your patience, and a pressure of official business obliges me to write in the utmost haste.

After what passed yesterday I should have felt uneasy had I not thus candidly declared my sentiments, and especially after seeing the draft of the commission prepared by the Law Officers, which I have perused with much attention and with feelings which I dare not describe to Your Excellency.

Sincerely respecting Your Excellency as I do, wishing all possible success may attend your administration of this Government, and that you may stand equally high in the opinion of your Sovereign and of the public.

I have the honor to be, Sir,

Your Excellency's most humble and
Most obedient servant,

HERMAN W. RYLAND.

To His Excellency

Sir J. C. Sherbrooke, G. C. B.

BEAUPORT, *Sunday, 13th December, 1817.*

SIR,—Having within these few days had opportunity to consider more maturely than I had previously done the subject of Mr. Foucher's impeachment by the Assembly, and the interesting discussions it has given rise to, I have been induced to commit to writing, rather in an abstract and formal manner, the principal reasons which I think may be urged against issuing the commission drafted by the Attorney and Solicitor General, and I now respectfully beg leave to offer them to your consideration.

It is possible, if Your Excellency thought it so far deserving of attention, that a paper of the nature of the enclosed, might serve as a means to ascertain the sentiments of the leading Members of both Houses, previous to the

meeting of the Legislature, and could a plan of proceeding be mutually agreed upon before hand, all serious difficulty would probably be obviated.

I am deeply impressed with an idea that the next opening of the Provincial Parliament will be the commencement of a new era with respect to the system of this Colonial Government, and that the longer or shorter continuance of this Province as an appendage to the British Empire will, in a great degree, be determined by the events of the ensuing session.

Being unfortunately doomed to follow its destiny I confess I feel a more than ordinary interest in the measures that may be adopted, and I trust this will serve as an apology for the liberty I have repeatedly taken in troubling Your Excellency with my sentiments respecting our Colonial Politics.

I have the honor to be, Sir,

Your Excellency's most humble and

Most obedient servant,

HERMAN W. RYLAND.

To His Excellency

Sir J. C. Sherbrooke, G. C. B.

Reasons why a commission under the great seal of the Province should not be issued for the purpose of empowering the Legislative Council to take cognizance of the charges preferred by the Assembly against Mr. Justice Foucher, and to offer to His Majesty their opinion and advice thereon.

1st. Because at the time when the subject of impeachments was first agitated in the Provincial Parliament, and charges were preferred by the Assembly against the two Chief Justices, which induced the Legislative Council to vote an address to His Royal Highness the Prince Regent respecting the same; no mention was made in the said address of a *commission*, and it does not appear that that such an instrument was then contemplated by the Council as necessary in order to its being invested by the Crown with the constitutional privilege of examining into and passing a judgment upon the charges so preferred by the Assembly.

2nd. Because, notwithstanding a *commission* was mentioned in the subsequent address of the Legislative Council to His Royal Highness the Prince Regent on the impeachment preferred by the Assembly against Mr. Justice Foucher, no notice whatsoever is taken thereof in the answer of His Royal Highness to the said address.

3rd. Because it is an acknowledged fact that every servant of the Crown in this Colony holds his situation only during His Majesty's pleasure, and that a clause to this effect is, by the special command of His Majesty, inserted in every patent or sealed appointment to office, from which it is evident that the Crown reserves to itself the right of dismissing its servants upon such grounds and upon such investigation as to the Royal mind it may seem meet to establish.

4th. Because, by the despatch from the Secretary of State to the Governor in Chief, of the 5th July, 1817, His Excellency is particularly instructed to inform both Houses of the Provincial Parliament, "that in the case of "Mr. Justice Foucher, and, in *all similar cases of Impeachment by the Assembly* the adjudication of the charges preferred against the party accused shall be left to the Legislative Council, and the despatch evidently appears to have been written under a persuasion that nothing further was requisite than a formal annunciation of its contents, to enable the two Houses, agreeably to the customs and usages of Parliament, to enter with mutual good understanding on the exercise of the constitutional privileges thus respectively conceded to them."

5th. Because a commission of any kind would take from the Legislative Council its *constitutional character*, and the very nature of a Parliamentary body seems to be destroyed by supposing it may be bound and compelled, by a *commission* (under the great seal) to adopt a course of proceeding contrary to its own judgment.

6th. Because there is every reason to believe that the good sense and loyalty of the House of Assembly would induce a ready acquiescence on their part in the "*arrangement*" adopted by His Royal Highness the Prince Regent, for enabling the Legislative Council to be made parties

to any accusations preferred by the Assembly against public servants of the Crown in this Province.

7th. Because there exists no precedent for the commission proposed, and the highest law authority may be produced to shew, "that all commissions of new invention are against law until they have allowance by Act of Parliament."

8th. Because it does not appear that the King's Representative is empowered to erect and constitute a tribunal in this Province, for the trial of offences that are not cognizable in the ordinary Courts of Justice, or declared to be offences by Statute or Common Law, and should it please His Excellency the Governor in Chief to issue a commission of *oyer and terminer*, to be composed of a High Steward and of the Members of the Legislative Council of this Province, there does not exist any law, custom or Parliamentary usage by which the House of Assembly can be called upon to appear before such Court, for the purpose of supporting the charges which as the representatives of the Commons of Lower Canada they may deem it to be their duty to prefer against Mr. Justice Foucher, or against any other public servant of the Crown in this Province.

9th. Because the adoption of any measure that would tend to throw difficulty in the way of a Parliamentary and constitutional investigation of the charges preferred by the Assembly against individual servants of the Crown in this Colony, might be interpreted into a desire to screen such servants from public justice, and might interrupt that harmony and good understanding between the several branches of the Provincial Parliament which the interests of His Majesty, and the welfare of his subjects in this part of his dominions, render it of the utmost importance to preserve.

SIR J. C. SHERBROOKE TO MR. RYLAND.

Monday morning, 15th December, 1817.

MY DEAR SIR,—I was yesterday afternoon favoured with yours of that morning's date, conveying to me some reasons why in your opinion a commission under the great seal of

this Province should *not* be issued for the purpose of empowering the Legislative Council to adjudicate on the impeachment preferred by the House of Assembly against Judge Foucher.

I have read these remarks with that attention which the importance of the subject demands, and which the respect I entertain for the talents and experience of the writer intitles them to, yet I regret that I cannot bring myself to subscribe altogether to the reasoning made use of on the present occasion, neither can I understand upon what grounds those Members of the Legislative Council, who concurred in the address presented by that body to the Prince Regent, respecting the impeachment and trial of Judge Foucher, at the close of the last session, can now object to a commission for that purpose.

In this dilemma I shall certainly use my best endeavours to procure the clearest information this Province will afford upon the subject, and shall feel myself obliged to all those who will give me their opinions with the same candour that you have done.

I perfectly agree with you that the next opening of the Provincial Parliament will bring about a great change in the system of this Government, particularly with respect to its finance. But when we observe the pecuniary embarrassments with which the mother country is at present struggling, it is not surprising that the ministers should call upon the Colonies to contribute to their own support.

Ever since the present constitution was given to Lower Canada, it must be obvious to every one who has considered the subject, that the House of Assembly has been gradually obtaining an encrease of power, whilst the Legislative Council has remained in statu quo. By this mode of proceeding *the proper balance has been lost*, and the only manner of restoring it appears to be by using every means to give *weight and importance to the Upper House*, and I am not aware that any measure could have been devised so likely to effect this desirable purpose as the declaration of the Prince Regent, that as often as the House of Assembly shall impeach, the Legislative Council shall adjudicate upon the case: but the latter body having declared by resolution of its own, that it had not the power

to do so, I should suppose that some more formal instrument than a letter from the Secretary of State to the Governor will be required to invest the Legislative Council with the necessary authority to act.

I have thought it right to say thus much in acknowledging your communication, which I shall peruse again with attention as soon as my time will admit of it, and am,

My dear Sir,

Your very faithful and much obliged,

J. C. SHERBROOKE.

MESSAGE.

JOHN COAPE SHERBROOKE, GOVERNOR.

His Excellency the Governor in Chief informs the Legislative Council, that having transmitted their address to His Royal Highness the Prince Regent, of the third day of March last, with the proceedings of the Assembly against Louis Charles Foucher, Esq., one of the Justices of the Court of King's Bench for the District of Montreal, he has it in command from His Royal Highness the Prince Regent to signify to the Legislative Council the decision of His Royal Highness, that in this and in all similar cases of impeachment by the assembly, the adjudication of the charges preferred against the party accused shall be left to the Legislative Council.

His Excellency has it also in command from His Royal Highness to express to the Legislative Council the confident expectation of His Royal Highness, that the Legislative Council will so discharge the important duties which, under this arrangement, will devolve upon them, as to give complete satisfaction to all classes of His Majesty's subjects in this Province.

His Excellency further informs the Legislative Council, that not having received from His Royal Highness the Prince Regent any instructions as to the manner in which this decision as to be carried into execution he has been under the necessity of recurring to His Royal Highness for his pleasure in this respect, and for such instructions as His Royal Highness may see fit to give thereupon, and he will not fail to communicate to the Legislative Council

the commands which he shall receive in this behalf from His Royal Highness, as soon after as they shall be conveyed to him as may be practicable.

Castle of St. Louis,
Quebec, 2nd March, 1818.

**COPY OF THE RESOLUTIONS OFFERED BY MR. RYLAND
TO THE LEGISLATIVE COUNCIL, IN CONSEQUENCE
OF THE GOVERNOR IN CHIEF'S MESSAGE TO THAT
HOUSE, OF THE 2ND MARCH, 1818.**

1st. That an humble and dutiful address be presented to His Royal Highness the Prince Regent, thanking His Royal Highness for the signification of the Royal pleasure upon the subject of the address of this House to His Royal Highness, of the third day of March, 1817, and for the gracious determination of His Royal Highness, "that, in the case of Mr. Justice Foucher, and in all similar cases of impeachment by the Assembly, the adjudication of the charges preferred against the party accused shall be left to the Legislative Council."

To assure His Royal Highness that the great and important privilege thus conferred upon the Legislative Council is considered by this House as the highest mark of confidence that the Crown can bestow upon it, and that it will ever be the earnest wish and endeavour of this House, so to discharge the important duties, which under this arrangement, will devolve upon the Legislative Council, as to give complete satisfaction to His Royal Highness and to all classes of His Majesty's subjects in this Province.

2nd. That the declaration of the Royal pleasure contained in the message of His Excellency the Governor in Chief upon the subject of the address of this House to His Royal Highness the Prince Regent, of the third day of March, 1817, *doth vest in the Legislative Council full and complete authority to enter on the immediate exercise, if necessary, of the constitutional and Parliamentary privilege thereby granted to this House.*

N. B.—It was afterwards proposed by Mr. Ryland to amend the above resolve by leaving out the words that are underlined, and substituting the following :

"Doth give to the Legislative Council full and complete authority in the case of Mr. Justice Foucher, and in all similar cases of Impeachment, (whenever the same shall be preferred by the Assembly before this House,) to investigate the charges preferred against the party accused, and to offer to His Majesty the opinion and advice of this House thereon."

3rd. That the adoption of any measure tending to throw difficulty in the way of a Parliamentary and constitutional investigation of charges which, as the representatives of the Commons of Lower Canada, the Assembly may deem it to be their duty to prefer against individual servants of the Crown in this Province, might be interpreted into a desire to screen such servants from public justice, and might interrupt that harmony and mutual good understanding between the several branches of the Provincial Parliament, which the interests of His Majesty, and the welfare of his subjects in this part of his dominions render it, of the utmost importance to preserve.

4th. That in the exercise of the powers and privileges granted by the Crown to the Legislative Council in all cases of impeachment by the Assembly this House will be guided, as far as circumstances shall permit, by the rules, usages and precedents to be found on the journals of the Imperial Parliament; but that in cases of peculiar difficulty (should any such arise,) where the said rules, usages and precedents shall be insufficient to guide its proceedings, this House will submit the same to His Majesty's Representative, in order that the final determination of the Crown may be obtained thereon.

5th. That a copy of the foregoing resolutions be transmitted by one of the Masters in Chancery to the House of Assembly.

MR. RYLAND TO COLONEL READY.

ORDERS RESPECTING THE CHARGES PREFERRED AGAINST
MR. JUSTICE FOUCHER.

2nd February, 1810.

MY DEAR SIR,—The great importance of the subject will, I hope, excuse the liberty I take in once more calling

your attention to the plan I first suggested for removing the difficulties which have so unnecessarily been created with respect to Mr. Foucher's impeachment. I think it impossible that any plain, upright man can read Lord Bathurst's despatch of the 5th July, 1817, without feeling a perfect conviction that nothing more was necessary than a communication of that despatch, *in extenso*, to the Legislative Council and Assembly, to enable both Houses immediately to take the necessary steps for bringing the *charges* preferred by the Assembly against Mr. Justice Foucher to a final adjudication, agreeably to the mode prescribed in that despatch by the Prince Regent; and I can take upon me to say, that the resolutions offered by me, in consequence of the Governor in Chief's message of the 2nd March last, would have been adopted by the great majority of the Council, had not their opinions been stifled or repressed by artful and solemn asseverations made in the House for the purpose of inducing a belief that the state of the Governor's health was such that a further agitation of the business might endanger his life!

This is now candidly avowed by the members, in excuse of the line of conduct they then adopted; and hence, my dear Sir, I am led to conclude, that if, upon a *partial* communication of the contents of the despatch, the sentiments of the majority so nearly co-incided with those expressed in the resolutions, a full communication of that admirable and well-judged letter, and of *that only*, must, to a certainty, reconcile all differences, and obviate all the difficulties and disorders that might justly be apprehended from a communication of instructions so widely differing in substance as the last from those first received.

Earnestly soliciting your serious consideration of the project enclosed, I am, with sentiments of the highest esteem and regard,

My dear Sir,

Most sincerely yours,

H. W. RYLAND.

**MESSAGE FROM HIS GRACE THE GOVERNOR IN CHIEF,
OF THE 8TH FEBRUARY, 1819, WITH THE DRAFT OF
AN ADDRESS FROM THE LEGISLATIVE COUNCIL, IN
ANSWER THERETO.**

RICHMOND, LENNOX AND AUBIGNY,

GOVERNOR IN CHIEF.

The Governor in Chief acquaints the Legislative Council that he has received the instructions of His Royal Highness the Prince Regent, as to the manner in which His Royal Highness' commands respecting the proceedings of the Assembly against Mr. Justice Foucher, which were communicated to the Legislative Council by message upon the second day of March last, are to be carried into execution.

His Royal Highness the Prince Regent considers it most advisable, and has accordingly been pleased to direct that the Assembly, previous to any ulterior proceeding, do adduce without delay, and do deliver to His Grace the Governor in Chief, such documentary evidence as they may consider adequate to support the charges which they have brought against Mr. Justice Foucher, and that copies of such charges, of such documentary evidence, and of the examinations already taken and annexed to the charges, be then transmitted by His Grace the Governor in Chief to Mr. Justice Foucher for his answer and defence.

And His Royal Highness has been further pleased to direct that the answer and defence of Mr. Justice Foucher be by His Grace the Governor in Chief communicated to the Assembly for their reply, and that the whole of the documents, as soon as the reply of the Assembly shall be received, shall be by him transmitted to His Royal Highness the Prince Regent for such further course as the case may require.

Castle of St. Lewis,
Quebec, 8th February, 1819.

We, His Majesty's dutiful and loyal subjects, the Legislative Council of Lower Canada, in Provincial Parliament assembled, having taken into our most

serious consideration Your Grace's message to this House, of the _____ by which we are informed, (as in the preceding message.)

Having, at the same time, had reference to the message of the late Governor in Chief, of the second day of March, 1818, in which the decision of His Royal Highness the Prince Regent, that in the case of Mr. Justice Foucher, "and in all similar cases of impeachment by the Assembly, the adjudication of the charges preferred against the party accused shall be left to the Legislative Council," was solemnly announced to both Houses of the Provincial Parliament; this House, under communications so essentially differing in substance from each other, deems it indispensably necessary to solicit from Your Grace more ample information with respect to the answer received by the late Governor in Chief, on the subject of the address of this House to His Royal Highness the Prince Regent, of the third day of March, 1817, and of the address of the Assembly to His Royal Highness, of the twenty-fifth day February of the same year, which, it appears by His Excellency's message to that House, of the 2nd of March last, was accompanied by the proceedings of the Assembly against Mr. Justice Foucher.

The Legislative Council feels it also to be a justice due to itself on the present occasion to state to Your Grace, that, at the time of receiving the late Governor in Chief's message of the date above mentioned, it was prevented from taking more upon itself than to return its humble thanks for the "*decision*" of His Royal Highness the Prince Regent, on the subject of its address of the 3rd March, 1817, by representations made in this House, that the state of His Excellency's health was such that a further agitation of the business at the moment might endanger his life. But this House relied with confidence on the communication contained in the message, that the "*arrangement*" therein announced, with respect to the adjudication, by the Legislative Council, of all charges of impeachment preferred by the Assembly, was *final*, and such as both Houses of the Provincial Parliament could not but cordially acquiesce in with sentiments of the most profound gratitude to the Crown.

If, through the want of fuller information of the instructions originally transmitted, relative to impeachments by the Assembly, this House hath been led into error, or if representations have subsequently been made, tending to withdraw from this House the favor and confidence of the Crown, the communication which we now humbly and earnestly solicit of Your Grace will, we trust, remove from us all doubt as to the Royal intention, and finally enable us, with the powerful aid of Your Grace's support, to secure to this House the full and free exercise of a privilege, without which the balance of our admirable constitution will be destroyed, and this second estate of the Provincial Legislature be reduced to insignificance and contempt.

MR. RYLAND TO LIEUT. COLONEL READY, ENCLOSING PAPERS RELATIVE TO THE ST. SULPICIAN ESTATES.

BISHOP'S PALACE,

Friday Morning, 8 o'clock,

16th April, 1819.

MY DEAR COLONEL,—It appears to Mr. Hale and me, that a suitable occasion offers at this moment of entering a protest on the journals of the Legislative Council, which will shew the indisputable right of His Majesty to the estates commonly called the Seminary or St. Sulpician Estates in the District of Montreal, and make an opening for an arrangement of the highest importance to Government.

I deem it incumbent on me, therefore, to enclose to you a correspondence which took place between the Under Secretary of State and me, relative to these estates, at the time of my being sent to England by Sir James Craig, also the draft of a protest which Mr. Hale and I have it in contemplation to make, and the *motion* upon which it will be founded should the House reject the amendment we propose.

The Council meets to-day at 12 o'clock, when the subject will be brought into discussion, and I have staid in town on purpose to prepare for it.

I hope you will have time to read over the enclosed papers before you go to the Castle, and if you can make it convenient to see me I will wait on you at any moment you may appoint.

If you consider the prodigious increase that will be made to the value of the St. Sulpician Estates by the completion of the Lachine Canal, you will feel as sensibly as I do of how much consequence it is that His Majesty's rights with regard to them should now be asserted and declared; and I cannot doubt that the *protest* by opening the eyes of the public to the utter want of title on the part of the Seminary will have the effect of compelling that body to throw itself upon the liberality of the Crown, and thus afford to Government the means of a financial arrangement that will eventually relieve it from all further necessity of looking to the Assembly for the supplies required to pay the civil list.

I shall be ready at any time either verbally or in writing to offer my sentiments more fully to you on this very important subject.

I am, &c.,

H. W. RYLAND.

DRAFT OF A LETTER TO THE REV. MR. ROUX, RESPECTING THE CLAIMS OF THE SEMINARY AT MONTREAL.

CIVIL SECRETARY'S OFFICE,

QUEBEC, 1st June, 1819.

SIR,—Your memorial of the — May having been referred by the Governor in Chief to a Committee of the whole Council, I am commanded by His Grace to enclose to you an extract of the Report made by the Committee thereon.

Report on the Petition of the Seminary of Montreal, dated 28th May, 1819.

“The Committee are humbly of opinion that the question between the Seminary and Mr. Porteous is entirely a question of civil right, cognizable in His Majesty's Courts of law, and consequently that the application to Your Grace for the interference of His Majesty's Executive Government is improper, and cannot be attended to.”

I am further directed by His Grace to inform you, that in consequence of your present application, and of other circumstances of recent occurrence, he has been induced to inquire into the proceedings heretofore had by His Majesty's Government with respect to the estates commonly called the Seminary Estates, in the District of Montreal, which, prior to the conquest of the Province, were held by the Society of St. Sulpicians at Paris, and the pretensions of those members of that Society residing in Canada, to whom, in the year 1764, after the cession of the Province to His Majesty by the treaty of peace of the year preceding, those estates were attempted to be conveyed by the community at Paris.

In the investigation of these matters His Grace finds that, so far back as the year 1773, the then Advocate General, Sir James Marriot, in his Report to the King, of a code of laws for the Province of Quebec, enters at large into the subject of those estates, and decidedly expresses his opinion that, by the conquest of the Province, and the subsequent treaty of peace, the estates in question had devolved to the Crown.

This opinion was subsequently confirmed by a Report of the Provincial Law officers of the Crown, upon a memorial which the Ecclesiastics belonging to the Seminary at Montreal presented, in the year 1788, to Lord Dorchester, and which was referred by His Lordship to a Committee of the whole Council, who desired to have the opinion of the then Attorney and Solicitor General, "in order to enable them more justly to appreciate the claims set up by those Ecclesiastics."

In the Report made by the Law officers in consequence of this reference, they express themselves as follows: "That the Committee of the whole Council, from any document, writing or deed before them, cannot hold an opinion that the memorialists have shewn any title or right to the estates which belonged to the Order and Seminary of St. Sulpicians prior to the conquest, but that those estates fell to His Majesty at the conquest of Canada, and that, by the laws of England, the possessors, since the lapse to the Crown, have held those estates and their revenues as trustees for His Majesty's use."

It further appears from the records of this office, that, so recently as the year 1811, the above Report, together with the documents on which it was founded, and several others relating to the same subject, were, by command of the Earl of Liverpool, then one of His Majesty's principal Secretaries of State, referred to the Imperial Law officers of the Crown, and that a joint Report was in consequence made thereon to His Lordship by Sir Christopher Robinson, the Advocate General, Sir Vicary Gibbs, the Attorney General, and Mr. Solicitor General Plumer, in which those officers express their opinion as follows :

“ Relative to the lands held by the Community of the St. Sulpicians, we have considered the Reports communicated to us, together with the papers, and concur in the conclusion expressed in those Reports, that the St. Sulpicians in Canada *had not a valid title to the lands transferred to them by the Community at Paris.*”

Under these circumstances His Grace the Governor in Chief directs me to inform you, that he should not feel himself justified in supporting the claims and pretensions set forth in your memorial of the — May, but must leave you, if you judge proper, to pursue the course pointed out in the Report for bringing the matter in dispute between the gentlemen of the Seminary and Mr. Porteous to a legal issue.

I am further to inform you, that it is the intention of His Grace the Governor in Chief, with a view of finally determining the important question respecting the rights and pretensions of the gentlemen belonging to the Seminary at Montreal, again to submit the matter to the consideration of His Majesty's Ministers, being sensible that connivance alone cannot convey corporate rights, or vest in those gentlemen a legal authority to hold lands in mortmain.

Should it be your wish to transmit to the foot of the Throne any representation on this subject, His Grace will readily forward the same to the Secretary of State, for the purpose of its being submitted to the consideration of His Royal Highness the Prince Regent.

I am, &c.,

J. READY,
Secretary.

THE REV. MR. ROUX TO LIEUTENANT. COLONEL
READY, SECRETARY TO THE DUKE OF RICHMOND,
GOVERNOR IN CHIEF.

MONTREAL, 14 *Juillet*, 1819.

MONSIEUR,—Dans ma réponse à votre lettre du 1er Juin, j'eus l'honneur de vous demander la communication des raisons qui avaient déterminé l'opinion des officiers de la Couronne contre les droits du Séminaire. Depuis cette époque, en présence de Sa Grâce, qui le répéta d'après vous, vous me dites que le Mémoire de ces messieurs, en 1789, renfermait toutes les raisons qu'on pouvait trouver dans les autres opinions, de manière que tout doit se réduire à réfuter l'opinion de 1789. Pour éclaircir ce que nous en dirons, je joins ici un Mémoire *imprimé*, qui doit accompagner les notes que j'ai l'honneur de vous envoyer, pour être transmises au Lord Secrétaire d'Etat. J'observerai seulement, qu'ayant vu un ouvrage intitulé, Plan d'un Code de Lois pour la province de Québec, à Londres, 1774, que je crois celui de Sir Marriot, et que je citerai sous son nom, j'y ai remarqué bien des circonstances propre à affaiblir son opinion contre le Séminaire. En effet quelle autorité donner à un auteur dont les principaux plans sur les lois et la religion du Canada furent rejetés par le Bill du Parlement Britannique en 1774, à un auteur emporté par la haine de notre religion, qui donne son opinion contre un établissement catholique si important?—à un auteur qui, malgré sa passion, hésite encore à prononcer : “ *C'est une grande question si ces biens ne sont pas tombés à Votre Majesté.* ” Le doute d'un ennemi sur nos droits en serait presque une démonstration. Quelle autorité donner à un auteur qui paraît très peu connaître le Séminaire de Montreal, quand il lui donne généreusement £8000 sterlings de revenu, (il n'en avait que £1500 en 1766, dans le Mémoire présenté par le Séminaire au Gouverneur Murray, et seulement le double, c'est-à-dire £3000, en 1800, dans les comptes approuvés par Sir Milnes.) Quand il prétend que St. Sulpice et ses dépendances en Canada, étaient sous l'autorité de l'Archevêque de Paris, quoique ce prélat n'eût qu'une autorité spirituelle sur le Séminaire de Paris, et n'en eut aucune sur les autres maisons de St. Sulpice. Ces erreurs sur la nature

de St. Sulpice et de ses biens en Canada, et l'avou qu'il fit, le 3 Juin, 1774, en plein Parlement, de n'être jamais allé en Canada, et de ne pas connaître un seul Canadien, sont de nature à décrier son opinion contre les propriétés de ce corps.

Nous ne parlerons pas des raisons de Sir Marriot, parce que nous les trouvons dans le Mémoire de 1789, qui va nous occuper. Le Séminaire y donna occasion par un Mémoire présenté, en 1788, au Gouverneur, pour conserver la Seigneurie du Lac, contre les prétensions des Sauvages, et la propriété du greffe de Montréal, contre la nomination d'un nouveau greffier. Il ne s'agissait que de ces deux objets, et la référence du Gouverneur en conseil, 29 Octobre, 1788, n'en mentionne aucune autre.

Le conseil fixa le jour où les officiers de la Couronne donneraient leurs remarques, et 10 jours après, l'avocat du Séminaire devait donner les siennes. Le jour marqué, parurent les observations de ces officiers : ils y parlèrent peu des deux articles dont il s'agissait, et ils s'étendirent presque uniquement sur la question de la propriété des biens dont il ne s'agissait pas. Dans leur Mémoire ils ne manquèrent pas d'observer que c'était là tous les titres produits par le Séminaire ; que d'après ces pièces le comité ne pouvait croire que ces biens appartenissent au Séminaire, mais à la Couronne ; et que le Séminaire n'en était que *Trustee* pour les usages de la Couronne. L'avocat du Séminaire n'eut que 10 jours pour dresser sa réponse sur une affaire inattendue, pour laquelle il fallait consulter les parties à 60 lieues, en recevoir les instructions, les titres, y réfléchir, écrire les défenses, aussi il s'en plaignit et fit toute exception pour ses clients.

Que chacun juge comment ces officiers ont pu, avec honneur, changer ainsi l'état de la question, se prévaloir de ce qu'on n'avait produit d'autres papiers pour une cause imprévue, et prétendre obtenir ainsi une décision du conseil contre le Séminaire. Mais le conseil plus sage ne prononça pas, il renvoya l'affaire aux Cours de justice, en déclarant que la discussion pourrait changer les circonstances de la cause, et le Gouverneur, dans sa lettre au Séminaire, répondit sur les deux articles du Mémoire, et ne dit rien de la question sur les biens. Ainsi fut non

avenue l'opinion des officiers, qui resta 22 ans ensevelie dans les bureaux, et elle aurait persévéré dans son obscurité, si les ministres de 1811 en avaient connu les circonstances si peu honorables.

Examinons à présent le Mémoire même. D'abord, on y trouve la même erreur que dans Sir Marriot, sur la nature de St. Sulpice, qu'il fait également dépendre de l'Archevêque de Paris. Ces messieurs donnent ensuite comme un principe de la loi française, que les acquisitions des corps étaient absolument nulles, et ils en font l'application à la donation de Bourchemin, faite en 1735, au Séminaire de St. Sulpice, sans lettres patentes. La règle qu'ils donnent est générale pour tous les temps, même avant la déclaration de 1743, puisqu'ils l'appliquent à un acte de 1735. Il est pourtant bien sûr qu'avant les nouvelles ordonnances sur les mains-mortes, 1743, 1749, ces acquisitions étaient valides, et que les mains-mortes étaient seulement obligés à se vider les mains dans l'an et jour après la sommation. Telle est l'instruction de ces messieurs sur les lois françaises, et c'est dans les matières de droit qui sont précisément de leur compétence, dans un pays sujet aux loix françaises.

Ces messieurs mettent en avant dans leur Mémoire contre la cession de St. Sulpice au Séminaire de Montréal, la célèbre déclaration de 1743, qui annulle, disent-ils, et l'établissement des corps et leurs acquisitions, sans lettres patentes; déclaration, ajoute-ils, enregistrée dans la Province.

Il est fâcheux pour des officiers de la Couronne de citer la déclaration de 1743 contre une cession qui est de 1764, dans un temps où les lois françaises n'étaient point reçues en Canada, où la proclamation de 1763 y avait mis en force les lois anglaises et l'équité. Si ces messieurs veulent absolument invoquer la déclaration de 1743 contre l'établissement du Séminaire de Montréal, au moins auraient-ils du en citer l'article 9, qui laisse les établissements existants auparavant, jusqu'à ce que le Roi en eût ordonné autrement; et comme les Rois de France n'ordonnèrent rien là-dessus, que le Séminaire de Montréal existait incontestablement bien avant 1743, (à mon Mémoire,) il suit que cette déclaration même prouve l'établis-

sement légal du Séminaire de Montréal. *Il semble qu'il y aurait eu plus de bonne foi de ne pas oublier cet article de la déclaration.*

Ils répètent souvent que ce Séminaire n'est pas légalement établi sous le gouvernement français, selon les lois françaises, et ils entendent visiblement qu'il aurait fallu pour cet établissement légal des lettres patentes, ou l'intervention de l'autorité Royal. Il est pourtant certain qu'avant 1749 (en France) les Séminaires étaient exceptés de la nécessité des lettres patentes, pour l'enregistrement de l'ordonnance de 1659, et par l'édit de 1666, (voir mon Mémoire, p. 4,) et nous venons de voir que le Séminaire de Montréal s'en trouvait aussi excepté par l'art. 9 de 1743.

Il faut avouer que tous ces avancés *hazardés, et faux, et avec assez peu de bonne foi*, ne donnent pas grand crédit à l'autorité de pareils jurisconsultes.

Voyons s'ils seront plus heureux dans les raisons directes qu'ils opposent aux droits du Séminaire.

Pour mettre de l'ordre dans notre réputation, nous tâcherons d'en donner un Mémoire. Tout se réduit à deux points: la capacité légale et le titre légal du Séminaire.

Capacité légale. 1o. Sur la capacité légale. Ils disent que le Séminaire ne l'a pas. Ils disent que le Séminaire ne tentera pas de montrer que St. Sulpice avait le droit de créer un ou plusieurs corps (outre celui de St. Sulpice,) avec pouvoir de prendre et de tenir des biens en main morte. Ils disent que le Séminaire ne tentera pas de montrer, en lui-même, l'établissement légal d'un corps ecclésiastique avec des pouvoirs indépendants de l'Ordre de St. Sulpice de Paris, de prendre et posséder des biens en main morte, et voilà toutes leurs raisons. Comme ils avancent sans preuve, nous pouvons nier également; mais avec d'autant plus de justice, que c'est à ceux qui nous attaquent sur notre état, dont nous sommes depuis si longtemps en possession, à prouver ce qu'ils prétendent. Notre titre *contre eux est notre possession*, jusqu'à ce qu'ils aient prouvé notre incapacité.

Il faut bien qu'elle ne soit pas si claire, puisque Sir Marriot, qui ne manquait pas de zèle contre nous, ne l'a pas même mise en question. Il faut bien qu'elle ne soit pas si claire, puisque les *officiers de la Couronne en Angle-*

terre en 1811, après avoir vu le Mémoire de 1789, *n'ont rien dit* de cette incapacité, et se sont contentés de ne pas trouver de titre légal dans le transport de St. Sulpice au Séminaire de Montréal, (selon votre lettre du 1er Juin.) Il faut bien qu'elle ne soit pas si claire, puisque depuis 1677 qu'existe ce Séminaire, c'est en 1789 seulement qu'on en a douté pour la première fois. Quoique nous ne soyons pas obligés de prouver notre capacité contre des avancés au hasard, forts de nos moyens, nous croyons le faire avec avantage, (voir mon Mémoire depuis page 4 jusqu'à 20.)

Titre légal. 20. Venons au second point sur lequel ils s'étendent davantage, ainsi que les autres officiers, etc. Le Séminaire, disent-ils, n'a pas de titre légal; et comme ils ne lui en croient pas d'autre que la cession de St. Sulpice au Séminaire, c'est à cette cession qu'ils s'attachent, et ils l'attaquent par trois raisons que Sir Marriot n'a fait qu'exposer.

Les corps ne peuvent aliéner; ils ne peuvent être divisés; dans cette division, une partie du corps ne peut transporter à l'autre.

Première difficulté.—Les corps, disent-ils ne peuvent aliéner. Cela n'est pas vrai dans sa généralité. Ils ne peuvent dans certains cas: St. Sulpice était-il dans ce cas? Voilà ce qu'ils devaient examiner. Pas un mot, toujours vuide de raisons, et quand on ne prouve pas on n'établit rien. A leur place, nous prouverons. Les corps peuvent aliéner dans la nécessité; et cette nécessité existait, puisqu'il fallait que St. Sulpice aliénât, pour sauver l'œuvre et les biens à l'œuvre. (La raison est alléguée dans la cession.) - On aliène en observant les formalités, lesquelles sont, d'avoir l'autorisation de l'Eglise et de l'Etat. Mais quelle autorisation pouvait obtenir St. Sulpice du Roi et de l'Eglise de France, pour aliéner des biens en Canada, dans un pays sur lequel ils n'avaient aucune autorité? Formalités devenues impossibles, on ne pouvait les exiger; encore moins pouvait-on exiger des formalités établies pour conserver les fondations, lorsqu'il fallait ne pas les suivre pour conserver ces fondations. Sauver ses biens est la première loi; on ne s'occupe pas alors des formes dans lesquelles on les sauve. Il fallait nécessairement l'aliénation, c'est-à-dire la sortie des biens

des mains de St. Sulpice, ou volontaire comme on a fait, ou forcée par la confiscation. La loi qui défend d'aliéner était donc impossible, et dès lors elle n'obligeait plus. Pourquoi est-il défendu d'aliéner ? C'est pour conserver ces biens. Mais ici on les perdrait en n'aliénant pas. Donc le principe qui défend d'aliéner obligeait ici à le faire.

La loi défend d'aliéner ; mais St. Sulpice, a-t-il vraiment aliéné ? C'est avec les co-propriétaires des Ecclésiastiques du Séminaire de St. Sulpice comme eux qu'il a traités, (voir le Mémoire, page 41.) Alors même était-ce une aliénation ? Ils doivent le dire, et ils ne le prouve pas, toujours défaut de preuve. Non, nous prouvons qu'il n'y a point d'aliénation, quand on cède à des co-propriétaires qui ont droit dans le tout, (voir le Mémoire, pages 36 et 37.) Il n'y en a point, puisque c'est un simple partage de biens communs, (voir pages 37, 38 et 39.) Il n'y a point d'aliénation parceque ce n'est pas une vraie cession. St. Sulpice donne autant que de besoin y est. Il dit : c'est la déclaration du fait de la conquête, qui a fait elle-même l'aliénation (s'il y en a.) La conquête a rendu St. Sulpice de France *alien* en Canada, incapable de posséder, et elle lui a ôté ainsi la qualité de co-propriétaire, qu'il était : il est devenu seul propriétaire, les autres ayant perdu leurs droits. Ces idées sont simples et sans réplique de la part des officiers de la Couronne qui n'y ont pas même songé.

Droit d'aliéner par la conquête. On pourrait s'arrêter ici, mais pour montrer notre abondance de preuves nous allons établir que la conquête donnait à St. Sulpice le droit d'aliéner, dans les 18 mois d'après le traité, etc. Tel est l'effet des conquêtes, elles laissent à chaque propriétaire ses biens ; et quand la conquête est terminée par le traité de paix, les propriétaires qui se retirent vendent ce qu'ils possédaient dans le pays conquis. Donc St. Sulpice a pu vendre ses biens du Canada, quand le traité de paix fut conclu. Mais on donne toujours un temps pour vendre, et on ne peut en assigner de plus raisonnable que celui de 18 mois du traité. Donc St. Sulpice a pu aliéner dans cet intervalle.

La capitulation autorisait cette aliénation. L'article 48 autorisait même les absents à jouir par procureur, et si le

Canada restait à l'Angleterre, il autorisait *toutes personnes* (sans exception) à vendre, sûrement dans les 18 mois marqués dans le traité. Donc St. Sulpice le pouvait comme tous les absents. D'autant plus que toutes les communautés étaient traitées comme les individus, art. 34, 35. D'autant plus que la confiscation étant odieuse, doit être restreinte autant que possible. D'autant plus que St. Sulpice était présent en Canada par ses confrères, ses procureurs et co-propriétaires. D'autant plus que les français habitants, étant sujets, par l'art. 41 de la capitulation, ils étaient dans une circonstance moins favorable, (pour vendre et laisser, etc.,) et laisser le souverain qu'ils avaient reconnu, que ceux qui ne lui avaient jamais promis fidélité. Aussi ceux-là sont mentionnés dans le traité, parce qu'étant sujets ils avaient besoin de cette permission, et on ne parle pas des autres qui, n'étant pas sujets, n'avaient aucun besoin d'être mentionnés. Donc St. Sulpice pouvait aliéner.

Qui ne sent d'ailleurs que la conquête, qui est le droit des gens, dans ces circonstances extraordinaires, est au-dessus des lois d'administration commune, qui défendent ces aliénations de ce cours ordinaire de la société.

Seconde difficulté.—Les corps ne peuvent être divisés de manière qu'une portion transporte à l'autre.

Si les corps ne peuvent être divisés, St. Sulpice n'est qu'un corps encore, et ce corps possède comme auparavant par les maisons qui en sont capable, comme les ordres religieux possèdent en Espagne, par les maisons d'Espagne ; en France, par les maisons de France. D'autant plus que le corps n'a qu'une existence idéale, que ses maisons seules ont une existence réelle, et qu'ainsi le corps existe et possède par ses maisons.

Les corps ne peuvent être divisés, c'est-à-dire se diviser eux-mêmes ? Cela est faux dans sa généralité, puisque l'abbé et religieux se divisent en partageant leurs biens communs. Et nous avons vu que la cession de St. Sulpice au Séminaire de Montréal était un partage. Mais en supposant que les corps ne puissent se diviser eux-mêmes, ce n'est pas St. Sulpice qui a fait cette division, c'est la conquête. Comment donc lui ferait-on porter la peine d'une division qui n'est pas son ouvrage ? Les corps peu-

vent être divisés par la loi, et former alors deux corps légaux. Or c'est la loi qui a divisé St. Sulpice, la loi des conquêtes qui est le droit des gens, la loi du traité de paix qui est l'autorité de deux puissances, la loi des *aliens*, qui, rendant une portion du corps étranger, a opéré la séparation. Donc rien de plus légal que cette séparation ; séparation qui a lieu très souvent dans toutes les conquêtes qui divisent les établissements des pays conquis d'avec les autres en des états étrangers, dans les volontés des souverains qui défendent les communications, avec le reste du corps situé dans d'autres royaumes, sans que ces maisons soient détruites.

Troisième difficulté.—Du moins une portion du corps divisé ne pourra transférer à l'autre.

Nous répondons, ces parties du corps étant devenues chacune corps *légal* (comme, mais sans le prouver, nous venons de le dire,) ce n'est pas une portion du corps qui a transféré à l'autre, mais un corps légal à un autre légal. C'est d'ailleurs le corps de St. Sulpice agissant dans la cession par ses chefs qui a cédé ; et c'est non à une partie du corps simplement mais à une partie du corps qui était corps légal, puisque nous avons prouvé que le Séminaire de Montréal était légalement établi. Donc il est faux de dire qu'une portion du corps ait transféré à l'autre. Il n'y a pas même de translation de biens, car c'est un partage, et dans les partages chacun possède sa part, en vertu du droit de propriété qu'il a dans le tout, (v. le Mémoire, page 37, etc.) Nous venons de montrer dans la première objection, qu'il n'y avait ici aucune vraie aliénation, et conséquemment aucune acquisition. Donc il n'y a aucun transport de St. Sulpice au Séminaire de Montréal. Ce transport est fait par la conquête, qui a rendu St. Sulpice *alien*, et dès lors le Séminaire, etc., de Montréal, qui n'était que co-propriétaire, s'est trouvé seul propriétaire, et la cession n'a fait que déclarer et confirmer ce qu'à fait la conquête ; ou plutôt il n'y a aucun transport de biens : mais le Séminaire de Montréal est resté seul propriétaire, non par aucune donation de St. Sulpice, mais par la cessation de ses droits, lorsqu'il est devenu *alien* ; il n'y a d'ailleurs transport de biens envers des co-propriétaires, (v. pages 36, 37, de notre Mémoire.)

Mais ce qui répond aux plus opiniâtres, c'est que le gouvernement a approuvé la cession de St. Sulpice au Séminaire de Montréal, et qu'en conséquence, il a solennellement reconnu la propriété du Séminaire de Montréal, en le recevant à foi et hommage en 1781, (v. notre Mémoire, p. 34, etc.)

Les officiers de la Couronne, en 1789, ont essayé d'infirmer cet acte. Examinons leurs raisons. D'abord ils nous disent: *valeat quantum valere potest*. Réponse.—Voilà un moyen très simple de se défaire des titres les plus authentiques. Et c'est ainsi que l'on traite un acte émané du Trône, fait au nom de Sa Majesté, et depuis 36 ans jamais altéré par Sa Majesté. Et ce sont les officiers de la Couronne qui méprisent ainsi les actes solennels de la Couronne !

Mais la foi et l'hommage ne change pas la nature des actes qui ont été produits ? Réponse.—On en dira autant de tous les actes produits dans les arrangements de transactions entre individus. La nature des actes n'a pas été changé par l'arrangement. On pourra donc ainsi anéantir toutes les conventions. Les actes produits pour la foi et hommage n'ont pas changé de nature : cela est vrai, mais ils ont été présentés, examinés ; et après l'examen ils ont été trouvés bons et capables de prouver la propriété du Séminaire. Et par qui ? Par la partie intéressée, qui peut seule avoir droit à ces biens ; par Sa Majesté même, agissant dans son représentant ; par la Couronne pour qui ses officiers ne font que plaider après avoir connu les difficultés publiquement proposées par les officiers de la Couronne, surtout par celle de Sir Mariott, que les autres ont copiées.

Si on prétend réformer un pareil acte du gouvernement, un acte si fort, (voir notre Mémoire,) fait avec tant de connaissance de cause, on peut élever des doutes sur tous les actes de la Couronne, et l'on détruit toute confiance dans le gouvernement qui en est le plus digne.

Mais enfin la foi et hommage ne donne pas le titre, ajoutent-ils. Nous répondons, elle le suppose, elle le démontre, elle le donne, (v. notre Mémoire, pp. 35, 36.) Elle le suppose, puisqu'il a fallu que le Roi le reconnut, pour reconnaître la propriété du Séminaire. Elle le

démontre, puisqu'il a reconnu cette propriété, malgré *les difficultés si pressantes, dit-on, des officiers de la Couronne*. Elle le donne ce titre, puisque Sa Majesté investit et met en possession le Séminaire, et qu'elle s'oblige à le protéger dans la jouissance de ses biens. Qu'il y a loin de là à lui enlever ses biens.

Ce qu'il y a d'étonnant et de plus fort pour nos titres, c'est que les officiers de la Couronne sont forcés de lire dans les titres des principes *qui excluent la Couronne de nos biens*.

Ils disent en effet dans leur Mémoire, que ces biens furent donnés pour la conversion des Sauvages, et instruction des Canadiens résidant dans l'Île de Montréal, (p. 4.) Que *the fruits and benefits of the said estates, so given and granted in contemplation of the doners, were to be applied to the conversion of the Savages, and for the instruction of the French residing on the said Island*, (p. 2.) Que ces biens étaient créés *in trust* pour *particular trusts*.

Mais si ces biens sont destinés à certaines œuvres, si les fruits et revenus doivent être employés pour ces œuvres (instruction des Canadiens et Sauvages,) que reste-t-il pour la Couronne qui ne pourra disposer ni des biens ni de leurs revenus? C'est ainsi que les principes de ces messieurs tirés de nos titres excluent la Couronne de la propriété de ces biens.

Ils disent que ces biens sont donnés *in trust*, et conséquemment St. Sulpice n'est que *Trustee* pour la conversion des Sauvages, et l'instruction religieuse des Canadiens, (dans la foi de leurs pères, sans doute selon l'intention des donateurs.) Donc, par nos titres, les officiers de la Couronne excluent la Couronne de ces biens. Il faut donc s'opposer aux titres, pour appeller la Couronne à la propriété de ces biens.

Ils répètent et prouvent par nos titres que les Ecclésiastiques du Séminaire de Montréal étaient Ecclésiastiques du Séminaire de St. Sulpice de Paris. La conséquence est facile. Donc la donation faite aux Ecclésiastiques du Séminaire de St. Sulpice de Paris était aussi faite à ceux de Montréal, qui étaient donc co-propriétaires, et conséquemment seuls propriétaires à la conquête (ceux de Paris ayant perdu leurs droits de co-propriétaires par leur qua-

tité d'aliens.) Selon eux, St. Sulpice n'était que *Trustee* ; donc la cession n'est qu'une nomination très permise de *Trustees*, et de personnes qui l'étaient déjà, étant membres du même corps.

Ainsi les officiers de la Couronne, forcés par nos titres, établissent les droits du Séminaire de Montréal dans un Mémoire fait pour les détruire.

Voilà donc à quoi se réduit l'opinion des officiers de la Couronne en 1789. Défaut de bonne foi, dans une attaque inattendue contre la propriété du Séminaire, dans l'omission de l'article 1er de 1743, qui confirme l'établissement du Séminaire, erreurs sur le corps de St. Sulpice, et sur les lois françaises avancés sans preuve, raisons faibles et toujours générales, sans application à la question, et qui n'attaquent que la cession de St. Sulpice ou Séminaire de Montréal, laissent subsister dans toute leur force des preuves innombrables de notre Mémoire, depuis la page 20 jusqu'à la page 36.

Raisons si faibles que le gouvernement les a laissées ensevelies 22 ans dans les bureaux d'où vraisemblablement elles ne seraient jamais sorties si le temps n'avait effacé le Mémoire des manœuvres qui les avait enfantées. Raisons si faibles que le gouvernement les a regardées comme non avenues, dans Sir Marriot qui les avait enfantées le premier, et n'en a pas moins reconnu, approuvé la cession, et déclaré solennellement la propriété du Séminaire, dans la foi et hommage en 1781. Raisons si faibles qu'elles ne touchent pas même la question, savoir : si cette cession a pu se faire à des co-propriétaires ; savoir : si cette cession n'est pas un partage de biens communs entre membres du même corps, partage très permis.

Raisons si faibles qu'elles se tournent contre les officiers de la Couronne même, forcés par des titres de reconnaître des principes qui excluent la Couronne de ces biens, et établissent ceux du Séminaire. Et puisque de votre aveu et de celui de Sa Grâce les raisons des autres officiers de la Couronne sont les mêmes que celles que nous avons réfutées, toutes leurs raisons de toutes les époques sont jugées dans nos réflexions comme elles furent jugées en 1772, par l'avocat général Mazeres, qui reconnaissait dans son projet de lois, que le Séminaire de Montréal était

propriétaire et seigneur; comme elles furent jugées en 1781 par le gouvernement; comme elles l'ont été depuis, depuis 38 ans, par le gouvernement, qui n'a jamais touché à l'acte de 1781; comme elles seront jugée toujours par le gouvernement, s'il ne veut pas affaiblir la juste confiance que l'on doit avoir dans les actes émanés de Sa Majesté et de son auguste représentant. C'est ainsi qu'en défendant notre cause nous défendons celle même du gouvernement.

A toutes ces raisons de justice, qu'il nous soit permis d'ajouter l'intérêt même du gouvernement. L'emploi de ces biens est notoirement connu, ils servent au soulagement des pauvres, au service des hôpitaux, au soin de l'immense paroisse de Montréal, à plusieurs missions de Sauvages, à un grand nombre d'écoles, à un collège nombreux regardé comme le premier établissement en ce genre dans le pays, et peut-être dans toute l'Amérique Septentrionale. Le gouvernement pourrait-il en faire un meilleur usage, et avec le discernement que nous donne la connaissance détaillée des lieux et des personnes.

Ils servent ces biens à soutenir une société de prêtres, chargés de remplir ces différentes œuvres, et qui le font avec le plus noble désintéressement, ne retenant selon leurs règles, pour eux-mêmes, qu'une nourriture frugale et un entretien modeste, afin que le bien public ne perde rien d'une si généreuse administration. Ils servent ces biens à entretenir ce corps tout dévoué à maintenir les bonnes mœurs et les principes, avec cette forte influence que leur donnent leur ministère, leurs vertus, leurs talents et leurs biens, sur un peuple bon, mais qui n'obéit que par devoir, et *non par affection*. Si ce corps n'existait pas il faudrait le créer, pour les intérêts même de Sa Majesté. Le détruire (et c'est le détruire que de lui ravir des biens qui font une partie de son influence,) le détruire c'est abattre, non pas seulement une des colonnes de la religion, mais un des plus forts remparts de l'autorité royale. Et, puisque cette maison a constamment servi Sa Majesté, dans tous les temps de crise surtout, puisque dans la dernière guerre c'est elle qui, à la demande de Sir Prevost, a fait marcher subitement toute l'île de Montréal, et a décidé ainsi la levée en masse de tout le district, contre l'attaque imprévue d'un ennemi formidable, faudrait-il qu'une ruine déplo-

table fut la récompense de ses services, la récompense du clergé, de la loyauté du peuple qui ont mérité l'approbation éclatante de Son Altesse Royale le Prince Régent ?

Quelle serait la douleur du peuple Canadien s'il voyait tomber une maison, le boulevard d'une religion, qui lui est si chère. Il a vu finir les récollets, les jésuites finir, cinq maisons de ces deux ordres disparaître, et il en a gémi, *et il en est encore ulcéré* ; alors du moins l'extinction de ces religieux semblait nécessiter leur anéantissement, et les esprits avaient été insensiblement préparés à leur perte. Mais quand il verra la maison de Montréal, *cette maison fondée pour lui*, rouler au milieu d'une foule de prêtres incapables de la préserver, au milieu d'une foule d'établissements ébranlés ou enveloppés dans sa ruine, que l'on sonde si l'on peut la profondeur de la plaie qui sera faite à son cœur ; que l'on conçoive les justes alarmes qu'il éprouvera sur le reste de ses établissements, qui lui paraîtront tous tendres rapidement à leur fin, comme ceux qui ne seront plus. Qu'il ne puisse former aucun établissement nouveau de quelque importance, malgré sa population et ses besoins croissant il le souffre patiemment, mais qu'on lui arrache ceux dont il a toujours joui, dont ses pères et ses aïeux ont joui, que l'on porte les coups les plus funestes à la religion qu'il aime et qui le console, qu'il croyait garantie par les traités et la bonté de son roi. Il ne m'appartient pas d'en prévoir les tristes suites ; il ne m'appartient que d'essayer de les prévoir, de donner à mon roi cette marque de mon attachement, et de rappeler à son gouvernement que les revenus du Séminaire n'accroîtront guère les revenus de la Couronne britannique, mais que ce sera pour elle une perte irréparable d'avoir aliéné les cœurs, seule vraie richesse des empires.

On n'évitera pas ces inconvénients, en disant que ces biens appartiennent à la Couronne. On ne le croira pas, le peuple surtout qui n'est frappé que parce qu'il voit. On ne le croira pas après avoir toujours vu ces biens possédés par St. Sulpice, avant et après la conquête.

On ne le croira pas après avoir vu la Couronne reconnaître elle-même dans le Séminaire les propriétés que l'on réclame aujourd'hui pour elle.

On n'évitera pas ces inconvénients en donnant une pension comme Sa Grâce l'a proposé. Parce qu'une pension toujours dépendante de tant d'événements, et facile à supprimer; une pension de nature à devenir une charge intolérable quand on aura oublié qu'elle fut en remplacement de ces biens; une pension que l'honneur et la justice permettent avec peine d'accepter, la fondation confié à St. Sulpice, ordonnant que ces biens seraient toujours dans ses mains, et pour les Canadiens et les Sauvages; une pension qui ôte au Séminaire son indépendance et sa dignité, ne paraîtra jamais qu'un faible voile *pour cacher la spoliation*.

Au lieu d'aliéner ainsi les cœurs, le gouvernement pourrait les gagner par une mesure bien différente, et bien plus digne du grand Prince qui nous gouverne. Ce serait, (nous le proposons qu'en tremblant,) que Son Altesse Royale le Prince Régent daignât, dans sa bonté, fixer nos incertitudes, et nous confirmer dans notre état et dans nos biens. Ce ne serait que confirmer la reconnaissance solennelle qu'en fit le représentant de Sa Majesté, lorsqu'en 1781 il reçut à foi et hommage le Séminaire de Montréal.

J'ai l'honneur d'être avec respect,

Monsieur,

Votre très humble et obéissant serviteur,

ROUX.

L. Col. Ready,

Secrétaire.

NOTA.—Comme l'accord des officiers de la Couronne paraît faire impression sur Sa Grâce, nous prenons la liberté de faire les observations suivantes :

1o. Si l'on juge de leur autorité par leurs raisons, nous croyons avoir prouvé qu'elles ne disent mot de nos principales raisons exposées dans notre Mémoire; qu'elles ne combattent que la cession de St. Sulpice au Séminaire de Montréal, laquelle ils n'examinent pas dans son vrai point de vue; comme faite à des co-propriétaires, comme étant un simple partage entre propriétaires de biens communs, comme n'étant que la déclaration du fait de la conquête, qui a fait cesser les droits de St. Sulpice devenu *alien*, et n'a laissé que les droits du Séminaire de Montréal.

20. Ces opinions ont toutes le vice d'avoir été données sans entendre le Séminaire, sans connaître ce qu'il aurait eu à leur opposer.

30. Elles n'ont que l'autorité toujours faible d'un avocat pour son client, comme le disait Sir Marriot de son opinion pour la Couronne, dans son interrogatoire au parlement de 1774, sur les affaires du Canada. Le Séminaire a les siennes aussi très prononcées sur son droit. Celle de M. D'Outremont, magistrat très instruit, alors à Londres, dans laquelle le Séminaire de Montréal est dit n'avoir acquis aucune nouvelle propriété parce qu'il était co-propriétaire, et la cession de St. Sulpice n'avoir opéré que ce que la conquête avait fait. Nous avons l'opinion de M. Dupin, célèbre avocat de Paris, qui n'a trouvé dans la cession de St. Sulpice qu'un partage très permis et on a consulté ces messieurs parce qu'ils devaient mieux connaître les lois françaises et la nature des communautés. Telle est aussi l'opinion de M. Papineau, qui tient le premier rang parmi ses compatriotes, et qui connaît parfaitement l'organisation de St. Sulpice.

40. Le défaut de cette connaissance affaiblit beaucoup les opinions des officiers de la Couronne à Londres, et celle de Sir Marriot, qui n'était jamais venu en Canada. Nous avons vu ce qu'on pouvait penser de l'autorité des officiers de la Couronne en 1789, de manière que tout se réduit à ceux de 1811 à Québec. Ce qui ne saurait être suffisant pour décider une pareille question; surtout quand la qualité d'officier de la Couronne oblige presque d'opiner pour elle, et que l'on peut y supposer la même ignorance des communautés que l'on trouve dans les autres.

50. A cette opinion d'un officier de la Couronne, nous pouvons opposer celle d'un autre de ses officiers, de M. Mazeres, qui, dans un plan pour le Canada, a reconnu la propriété du Séminaire. Et l'opinion d'un officier de la Couronne pour le Séminaire est d'un tout autre poids que lors qu'elle est pour la Couronne.

60. A cette autorité nous opposons la plus grande de toutes en cette matière, celle du gouvernement même, qui en 1781 reconnut expressément la propriété du Séminaire. Mais quand le gouvernement n'a pas seulement donné son opinion, comme peuvent le faire les officiers de

la Couronne, quand il a formellement décidé pour le Séminaire, et d'après l'examen des titres, et malgré les objections des officiers de la Couronne, et par un acte solennel, et par un acte qui, n'étant jamais révoqué par Sa Majesté depuis 38 ans, subsiste toujours; comment proposer un nouvel examen, une décision nouvelle, qui ne peuvent être que les mêmes, si on ne veut infirmé tous les actes de la Couronne.

NOTE ENFORCED ON THE ABOVE BY MR. RYLAND.

This letter appears to me to be in the highest degree disrespectful to His Grace the Governor in Chief. It is made up of jeering and bullying from the beginning to the end. It treats His Majesty's Law servants as both fools and knaves, for having pointed out to their Sovereign the important rights which devolved to him by the conquest of Canada.

It manifests in the most palpable manner the inmost prejudices of the writer against the religion of the state, and the King's Supremacy as established by the constitutional laws of the empire. In short it sets the Crown at defiance, and, in my humble opinion, the only ground for submitting *such a paper* to the Secretary of State is, that it affords convincing proof of the malignity and ingratitude of a certain class of individuals who, during the period of the French Revolution, were rescued by British generosity from destruction, and the utter impolicy of affording to alien French priests an opportunity of instilling into the minds of the Canadians the most bigoted prejudices against the religion and authority of their Sovereign.—R.

23rd July, 1819.

MR. RYLAND TO LIEUT. COLONEL READY, ON THE
SUBJECT OF MR. ROUX'S ANSWER TO HIS LETTER
OF THE 1st JUNE.

QUEBEC, 1st August, 1819.

MY DEAR SIR,—I take up my pen for the purpose of offering you some observations on Mr. Roux's long and laboured answer to your letter of the 1st June, and in so doing my mind is naturally carried back to that eventful period when this Ecclesiastic, together with several others of the same community, first sought refuge in a British province from the guillotine and lamp-post of their blood-thirsty countrymen.

I have, at this moment, a strong recollection of those letters from the Secretary of State, which recommended

those humble and persecuted men to the protection of His Majesty's Representative, and to the charity and benevolence of their brethren, the St. Sulpicians of Montreal; and I believe a more striking instance of *successful* recommendation is not to be met with in the history of mankind!

A very few years sufficed to give to those wily emigrants an entire ascendancy over those members of the Society to whom the St. Sulpicians of Paris had made over the Seminary Estates, after the peace of 1763; and the last of these individuals having paid the debt of nature, a considerable period has elapsed since this immensely valuable property has been in the uncontrolled possession of those emigrants who first so humbly implored the protection, and now so disdainfully dispute the rights and authority of the Crown.

It is impossible to divest one self of these recollections, whilst reading such a letter as that from Mr. Roux, in answer to yours of the 1st June, and to the subsequent verbal communication which His Grace the Governor in Chief condescended to make to him, relative to the opinions of His Majesty's Law servants. It is impossible not to contrast the destitute, woebegone, supplicating refugee, with the bigoted and presumptuous Ecclesiastic, strong in the possession of estates of incalculable value, and of an influence the most dangerous and extensive!

Among the many palpable marks of virulence and prejudice which are to be met with in Mr. Roux's letter, I cannot refrain from noticing one which, in a singular degree, shews his contempt for everything that is *English*. I refer to his mode of applying the term of knighthood, when speaking of Sir James Mariott, Sir Robert Milnes and Sir George Prevost; or does this gentleman wish to impose on you a belief that his retired habits, his religious avocations and monkish seclusion from the world, render him utterly ignorant of its usages? I myself very well remember the time when his mode of addressing persons of the above distinction was more correct. Really I know not whether a Tartuffe of this description deserves most our indignation or contempt! But I proceed to matter which is more serious.

It is evident from the whole tenor of Mr. Roux's letter, that the body in whose name he addresses you is perfectly

sensible of the advantage it derives from the long continued indulgence of the Crown, and he evidently intends to alarm you by an exaggerated representation of their *political influence*. He hesitates not, therefore, to declare, that the people of this country, so far from being attached to His Majesty's person and Government, "*n'obéit que par devoir, et non par affection*," which, in plain English, is as much as to say that they would cut your throats if they dare. Yet, at the same time, he talks of the wonderful alacrity with which, at a word from "*St. Sulpice*," the whole population of Montreal flew to arms in defence of that Government for which he acknowledges they have no affection: and hence he would have you conclude that the preservation of the Province depends on your keeping upon good terms with him and his brethren, or, at least, that a word from them would suffice to set the mass of the people in battle array against you.

But, Mr. Roux is too sagacious a man to venture, on this hypothesis alone, to rest the pretensions he now so arrogantly brings forward. He is well aware that one regiment of the line, accompanied by a dozen artillery men, and one field piece, would produce greater effect on the *loyalty* of the French Canadiens than the most touching discourse that ever fell from the lips of a Roman Catholic priest.

No, my dear Sir; Mr. Roux builds his pretensions on a much more solid foundation than the passions and prejudices of the populace. He and his community have not been unobservant of the line of politics pursued by two successive Governors in Chief, with respect to the Roman Catholic establishment in this Province. Under this system (the adoption of which they attribute to the *apprehensions* rather than to the liberality of Government) they have seen an income of £1500 stg. a year annexed to the appointment of Romish Bishop, without the smallest concession of patronage or influence having been gained by the Crown; and, what is of much greater consequence, they have seen the person holding this situation raised to a seat in the Legislative Council, from which the King himself has not the power to remove him. They are aware of the advantage they will derive from the presence of this personage in England, where he will possess the means of

making a splendid appearance; and they flatter themselves, with reason, that his subtlety and talents, and sanctimonious professions of loyalty, which have already contributed so much to their advantage on this side the Atlantic, cannot fail, on the other, to secure the acquiescence of His Majesty's Ministers in every measure that he may propose.*

These people have seen all English influence gradually excluded from the House of Assembly, where they are now sure that no Bill will pass which could tend to encourage a protestant population, and they are sensible that both the Legislative and Executive Councils are so composed as to render nugatory any attempt to secure to His Majesty a greater degree of authority and influence over his Roman Catholic subjects in this part of the British dominions, than he has hitherto exercised.

To these particulars I may add another of equal importance, which is, the notorious want of a legal character capable of defending and supporting the rights of the Crown in His Majesty's Courts.

All these circumstances considered, I am impressed with a belief that *this* is not the moment for asserting the rights of the Crown with respect to the St. Sulpician Estates. You must look to professional men for answers to the law opinions so pertinaciously set forth in Mr. Roux's letter and memorial; and I have no doubt that very satisfactory ones might be given, though *I* can presume only to offer you a *political* opinion.

I did entertain a hope that the *protest* which was entered in the last session on the Journals of the Legislative Council, and which I am persuaded has, more than anything else, alarmed Mr. Roux and his brethren, though he carefully avoids noticing it, I say, I did hope that this protest, by making the invalidity of their title so publicly known, would have disposed those gentlemen to accede to any reasonable arrangement that the Government might

The following was noted at a subsequent date on this letter, by Mr. Ryland:

* MEM. It is deserving of notice, that this very loyal prelate (whose father was a blacksmith at Montreal) refused to subscribe a guinea to the Cenotaph of the Princess Charlotte, under the pretence that his *conscience* would not permit him to contribute to the erection of a heretic church!

H. W. R.

propose.* But it is evident they possess too good a thing, and think themselves too secure, to part even with a portion of it voluntarily, and they plainly give you to understand that they are determined, at all risks, to resist His Majesty's claims, and to this end the *Mémoire* (or *Manifesto*) which they have printed may be considered as a preliminary step.

Should, therefore, the object be considered as worth contending for by the Crown, it is evident that the Colonial Government must retrace its steps, and, *by degrees*, adopt a different system of politics from that which has been acted upon during the last seven years.

Means must be found for introducing a *protestant representation* into the House of Assembly, either by a union of the two Provinces or by a new division of the Lower Province, so as to afford a representation to the *Townships*, the only means by which *their* allegiance can be secured to the British Government.

* The protest alluded to is to be found in the journals of the Legislative Council, from which the following is an extract, as published in the *Quebec Mercury* 30th April 1819:

Friday, 16th April, 1819.

On the third reading of the Lachine Canal Bill—It was moved to strike out the following words in the 5th clause, viz:

“ Provided that nothing herein-contained shall be construed to entitle the said Company of Proprietors to enter upon any part of the Ground at present fenced in and enclosed, used as yards and gardens for the Little Seminary of Montreal, unless with the express consent, in writing, of the Ecclesiastics of the Seminary of Montreal.”

The question being put, it was carried in the negative.

Dissentient—Because we have no evidence of the legal existence of a corporate body called the Seminary of St. Sulpice of Montreal, possessing the right of holding lands in mortmain.—Because the St. Sulpicians who remained in Canada after the conquest of the Province by His Majesty's arms, had not a valid Title to the Lands transferred to them by the community at Paris, it being indispensably necessary that the party taking under such conveyance should have a legal capacity to hold Lands, and there appears no grounds for saying that the Members of the Society of St. Sulpicians remaining in Canada had such a capacity separate and detached from the general body at Paris, (which has since been dissolved,) or that the requisite license from the Crown, which would have been required under the French law, and was equally necessary from His Britannic Majesty, has ever been granted to them.

The Royal prerogative must be exerted, for raising up a similar interest both in the Upper House of the Provincial Parliament, and in the Executive Council, which comprehends the Court of Appeals, and, above all, Law officers must be found with a *disposition*, capacity, talents and firmness equal to the arduous and important duties that will be required of them.

But you will naturally be anxious to determine what *immediate* steps it will be advisable to take under existing circumstances, for, although His Grace were to remain entirely inactive, it is very certain that neither the gentlemen of the Seminary, nor the Nuncio who is now on his way to England, will continue so.* The inordinate ambition of the one, and the zeal of bigotry of both these parties may assure you of this.

An answer must be returned to Mr. Roux, which, I am of opinion, should be as concise and guarded as possible.

I am further of opinion, that the turn these matters have taken, and the great importance of the point at issue, will fully justify His Grace in recommending it to His Majesty's

Because this is not a defect in form merely, but *in substance*, since it could not be but an object of material importance with the new Sovereign to regulate in what manner, and to what description of persons, lands should be transferred in mortmain, and the necessary license from His Majesty not having been obtained, the title of those persons claiming the Estates in question under a Deed of conveyance from the community of St. Sulpicians at Paris, was originally defective, and cannot now be considered in Law as valid; and there is, consequently, an evident impropriety in introducing into the present Bill a Proviso which stipulates a reservation in favour of a body which does not legally exist, and which regards that body as being legally possessed of Estates of immense magnitude and value, which of right belong to the Crown.

Lastly, because existing circumstances render it of the highest importance, to public as well as to individual interests, that the right and pretensions of the parties alluded to in the Clause which it was proposed to amend should be finally determined, and this can only be done by recourse being had to His Majesty, from whose authority alone any legal title to the property in question can be derived.

(Signed,) JOHN HALE,
HERMAN W. RYLAND.

* Bishop Plessis, who in that year, (1819,) visited England, and thence France and Italy.

R. U.

Ministers in the most solemn manner, to issue a commission under the great seal (*I would say of England,*) for the purpose of authorising three or more persons to *visit* the *soi-disant* Corporation of St. Sulpicians at Montreal, to examine, with the assistance of His Majesty's Law officers, into all matters and things appertaining to them as a public body, and to report thereon for the information of His Majesty's Government.

By a measure of this nature (which I conceive it is perfectly within the Royal prerogative to adopt, with regard to a community claiming corporate rights, and professing a religion different from that of the state,) correct information might be obtained of every particular that could serve to guide the final determination of the Crown, respecting this important subject.

I am, my dear Sir,

Ever most sincerely yours,

H. W. RYLAND.

P. S. It may be proper on this occasion to apprise you, that in the year 1790, the year after the Provincial Law officers of the Crown had made their Report to the Executive Council on the claims and pretensions of the Seminary at Montreal, this body presented a memorial to the then Governor in Chief, Lord Dorchester, praying leave to erect and endow a college at Montreal, which they proposed to call *Clarence College*, in honor of His Royal Highness the Duke of Clarence, who had recently paid a visit to the Province.

They further proposed that His Majesty should erect certain of their members into a body corporate, in order that they might be legally invested with the management of the said college, and that a *visitor* might be appointed to superintend the same, on the part of the Crown.

Thus far I learn from the minutes of the Executive Council to whom the Governor in Chief was pleased to refer the memorial. The Council recommended "that the overture should be laid at His Majesty's feet, for such course as His Royal Grace and Wisdom should approve and command;" but I have no knowledge of any subsequent proceedings on the subject. This only I know, that

some years afterwards, when the French emigrant priests had gained an ascendancy, and taken the management of the St. Sulpician Estates into their own hands, a college *was* erected at the expense of many thousand pounds, and as far as my information goes, without any shadow of authority from the Crown.

In short, Sir, it may truly be said, that such a degree of independence on all Royal authority exists in this Province as is not to be met with in any other part of the habitable globe where the kingly power is known.

H. W. R.

MEMORANDUM RELATIVE TO THE PROVINCIAL REVENUES OF THE CROWN IN LOWER CANADA.

A despatch from the Duke of Portland (then Secretary of State,) dated 19th April, 1799, directs that the deficiencies of the Provincial Revenues of Lower Canada shall be made good by drafts on the Military chest, and, in consequence of this order, warrants were issued at stated periods by the Commander of the Forces upon the deputed Paymaster General, to pay into the hands of the Receiver General the sums required to make good those deficiencies.

This system continued to be acted upon till the *unappropriated* monies in the hands of the Receiver General, arising from *temporary* duties imposed by Acts of the Provincial Parliament amounted to so large a sum that it was judged more advisable to borrow from *this*, than to take what was wanted out of the Military chest at a time when the Military expenses for the defence of the Province were excessive, and the rate of exchange was considerably against Government.

There can be little difficulty in ascertaining the aggregate amount of monies thus borrowed from the *unappropriated funds*, which still may be considered as being at the disposal of the Legislature.

The balance of monies due being ascertained, in case of a refusal on the part of the Provincial Parliament to sanction the past and future appropriation of such monies to the payment of the expenses of the Civil Government; and in case of Acts being assented to by His Majesty, for

appropriating those monies to *other purposes* (such as the opening of roads, the building of hospitals, the support of nunneries, or the like,) it will then become necessary for Government to determine in what way the sums borrowed shall be replaced in the chest of the Receiver General. Whether under authority of the despatch above mentioned they shall be drawn from the Military chest, or whether a call shall be made on the Imperial Parliament itself, to provide for making them good.

It is, however, of consequence to observe, that these monies cannot be called for but with the assent of the Legislative Council as well as that of His Majesty, in concurrence with the Assembly; and till the *whole* of the unappropriated monies in the hands of the Receiver General shall be disposed of, or required for the public service, there will be no absolute necessity for drawing upon the Military chest, and even then the supply may be regulated by the actual wants of the Civil Government, and *in proportion as acts of appropriation shall be assented to by the Crown*. By this means the funds of the Military chest would not be unnecessarily diminished, and the Provincial debt might be paid *by degrees* without any sudden or essential detriment to the Military service.

H. W. RYLAND. .

22nd January, 1821.

P. S.—Whenever an account of the unappropriated monies shall be laid before the Legislature, as above suggested, it may be advisable at the same time to transmit to both Houses a statement of the sums paid during the last twenty years out of the Military chest into the hands of the Receiver General in aid of the the Civil Expenditure. This sum must, of course, be considered as having been furnished out of the revenues of the parent state.

H. W. R.

OBSERVATIONS BY THE LATE LORD BISHOP OF QUEBEC, (R. R. DOCTOR J. MOUNTAIN,) RELATIVE TO THE AUTHORITY VESTED IN THE LEGISLATIVE COUNCIL, TO ADJUDGE CHARGES OF IMPEACHMENT PREFERRED BY THE HOUSE OF ASSEMBLY.

ST. LEWIS STREET, 29th January, 1821.

MY DEAR SIR,—After giving the best consideration in my power to Lord Bathurst's despatch, and to your observations upon it, I still find the despatch exceedingly ambiguous.

"The *adjudication* of the charges preferred against the party shall be left to the Legislative Council."

The *adjudication* of a charge is the judgment given upon it.

To *adjudge*, according to the best authorities, is :

1st. To give the thing controverted to one of the parties by a *judicial sentence*.

2nd. To *sentence*, or *condemn to punishment*.

Adjudication,—Is the act of judging, or of granting something to one of the parties litigant, by a *judicial sentence*.

In the legitimate sense of the term, therefore, *final decision* upon Impeachments was intended to be left to the Legislative Council.

If we look to the *reasons* assigned by Lord Bathurst for this mode of proceeding, the difficulty is only increased.

The *first reason* is, that, "*under such an arrangement*, His Royal Highness feels no disposition to *question* the *right* of the *Assembly* to submit Articles of Impeachment against any individual whose public conduct appears to them deserving of animadversion."

The conclusion from this reason tends to support the opinion which you entertain respecting the *purpose* of His Royal Highness, for it is not easy to see *how this arrangement could* be supposed to "*question the right* of the *Assembly* to impeach," unless it were intended that *their* accusation should not be received until confirmed by the concurrence of the *Legislative Council*, for Lord B. was conscious, (though he sought to disguise it,) that a previous reference to that Council would certainly, at least, *abridge* that right.

But the *second reason* leads to a directly opposite conclusion, "nor does His Royal Highness see any objection, in *such a case*, to a compliance with the address of the Assembly for the *suspension* of the obnoxious individual, since the means of *ascertaining the validity* of the charges being *at hand*, the party accused can sustain *little injury* from a *temporary* suspension if *innocent*, and if *ultimately pronounced* to be *guilty* the advantage of an immediate suspension is unquestionable."

Now, unless this *ultimate pronouncing of guilt*, (or innocence,) i. e. the *final judgment upon the case*, is to be left to the Legislative Council, it is the reverse of truth to say, that "the party can sustain *but little injury* by a *temporary suspension*, if *innocent*," because it is obvious, that if the charges are first to be examined, considered, and discussed, (but *not adjudged*,) by the Legislative Council, and are to be *sent home* for the judgment of His Majesty in his Privy Council, the proceedings against the innocent individual, and consequently his *suspension*, will be *prolonged* beyond the period which they would have occupied if the charges had gone *directly* home, without the intervention of the deliberations of the Legislative Council.

This reason, therefore, makes directly and strongly for a conclusion opposite to the former, that is to say, it imports that the *final judgment* is to be given here.

I am, my dear Sir,

Most sincerely yours,

J. QUEBEC.

Hon. H. W. Ryland.

EXTRACT OF A LETTER WRITTEN IN THE MONTH OF OCTOBER, 1822, RESPECTING THE GOVERNMENT OF LOWER CANADA, BY MR. RYLAND.

October, 1822.

Were I called upon at the present moment to point out in a few words a system that would remedy the existing difficulties in this Government, I would say:

"Either unite the Legislatures of Upper and Lower Canada, or, by giving a fair representation to the Town-

ships, secure an English influence in the House of Assembly. Perfect the constitution by creating an hereditary aristocracy (for which the Crown Reserves were originally set apart,) and make your Legislative Council *so respectable* as to render a seat therein an *object* of ambition to every man of character and *talent*. Exercise decidedly the patronage of the Romish Church, and give the Romish Bishop clearly to understand that the slightest opposition on his part to this regulation will put an end to his allowance of £1500 sterling per annum. Admit no more Coadjutors, secure a permanent revenue, adequate or nearly adequate to the expenses of the Civil Government. Ascertain to a farthing the monies that actually are or *ought to be* in the Receiver General's chest. Give to that officer an adequate salary, and take effectual means to prevent one shilling of the public monies from being employed by him in future in commercial speculations. Accomplish these objects, as you easily may, and be assured that good sense and upright intentions on the part of His Majesty's Representative will thereafter be fully adequate, to get the better of every difficulty that has hitherto attended this Provincial Government."

LORD DALHOUSIE, GOVERNOR IN CHIEF, TO MR. VAL-
LIERES DE ST. REAL, SPEAKER OF THE HOUSE OF
ASSEMBLY.

CASTLE OF ST. LEWIS, 26th November, 1823.

MY DEAR SIR,—I am well aware of the dislike with which the House of Assembly views any interference by the Executive Government, any communication, even between the Governor and the Speaker of the House during the Session.

I have often felt it to be a great public misfortune that such jealousy should exist, and the longer I feel it the the more I am convinced of it; still it does exist, and almost forbids me now to make this communication to you. The public interests, however, are my only object, and the importance of these as well as of the occasion induce me to overlook any imaginary impediments in the way; the experience also of your straight-forward and impartial

conduct in the Chair of that House assures me that your object and mine are equally the public good; and again on the other hand, I am convinced that the House itself would in one voice acquit you of holding any conversation or communication with me, which might not be proclaimed at noon day. Under this impression, I ask your perusal of the enclosed paper, containing my private sentiments upon the great subject which must occupy the attention of Parliament in this Session; although it is a private paper, you are at liberty to make any use of it you please, which may tend to smoothe the path of public affairs.

I shall not make a secret of it on my part to others who stand high in my esteem as public men.

I think it also my duty to acquaint you in confidence, that it is my determination to decline all other matters of public interest, until the course and means of finance are cleared up. It is impossible that I can carry on the Government under the temporary loans from the Military chest, or resources expected, which may not reach me when required. It is therefore necessary that you and I should distinctly see the course before us: by doing so, we shall certainly save time, and surmount difficulties with greater facility; and if we can get over them I shall ever think the step I am taking most wise and well advised.

I am, dear Sir, with great regard,

Your's faithfully,

DALHOUSIE.

The state of the financial affairs of this Province, for several years past is a subject which must create the greatest regret in the mind of any man who turns himself truly and sincerely to the interests of the country: my station imposes that reflection upon me every day I exist in it. My mind has been constantly bent upon it, constantly lamenting that session after session creeps away, and yet no material advance is made in the confused state of these affairs, so we may go on for an endless period, unless some public man will take up and shew where are the difficulties, where is the remedy for them.

I may be considered too directly interested to offer my opinion, because a party to whom the House of Assembly is disposed to attach blame, but notwithstanding that idea, I feel in my own breast so perfectly conscious of an upright discharge of my duties, and so purely actuated by the public good, that I will examine the matter, and state my ideas of it, in the desire of placing things in that contracted view which may give a clear and correct understanding of them.

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The House of Assembly has complained that large sums of public money have been expended without sanction of that branch of the Legislature by bill of appropriation, and in order to ascertain the total amount of such illegal expenditure, the House has called for the accounts of the Province from 1791 to 1820, with a great many other documents of information to enable it to arrive at the object of this enquiry.

After three years report has been made, the purport of which was principally to dispute the right of the King or his Representative in the Executive Government of the Province, to apply the revenue raised by certain Acts for certain specific purposes, and concludes by a statement of accounts for thirty years in receipt and expenditure, by sums total, the balance due being that which had not yet received the formal sanction of the Legislature.

In my idea this is travelling a road which never can bring us to the point at which we wish to arrive. It is utterly impracticable, even in the affairs of private life, to make a calculation of this nature produce a correct balance. How can it then be expected to tally in the conduct of public finance, for such a period, under so many succeeding Governors, so many public accountants, and different Receivers General? A correct balance can never be established, but suppose for a moment that a balance was fixed of £100,000, or any other sum arising from various irregularities of various Governors and Administrators of the Government for broken periods. On whom are these sums to be fixed? From whom are explanations to be required? On whom are public censures to be passed. I believe that no man will venture to accuse any one who has administered this Government since it became a Bri-

tish province, of peculation to the smallest amount. And I can from my own knowledge assert, that it is impossible under the present most scrupulous and close audit of public accounts that any unfair use of the public money can be made, but, upon whom is the balance to fall? Not upon the Government now? I cannot be made answerable for the acts of those who have gone before me, nor will my successor answer for the financial transactions of the Government under my control. If irregularities have been committed they cannot now be undone. It is an useless waste of time to seek for any remedy to them.

One step, however, should be taken, if any can be useful, and that is to state the items objected to, and call for explanations; the result will at least shew where the component sums are, which formed the disallowed or claimed balance. The report has stated it in a manner unintelligible and irremediable. It states that of the whole revenue of thirty years so much has been sanctioned, the remainder is due to the public; this is a round way of stating accounts which neither private, nor public affairs will warrant.

I am therefore perfectly convinced that the House of Assembly must ultimately see the impossibility of clearing up the balance of such a period upon such a mass of accounts, under so long neglect. There are, however, particular claims of the Provincial Treasury arising from the circumstances of the war, which may with great propriety be specifically stated, which I have no hesitation in saying bear a fair character, and which I think the Imperial Treasury ought to repay. But these never will be obtained by Report of the Legislature alone; they must be stated correctly, and asked for respectfully by address. I do not say that they will be granted but I am very certain that this is the most probable way by which to obtain them.

I need not dwell any longer upon the subject of the account of those past years; I think it would be wise in the Assembly or in the Legislature to put an end to them for ever; they never will add to the public purse, they will continue to divide the Councils of the Province, and arrest the current of public harmony, and public good in



every sense of the word. Let me now turn to the financial affairs under my own Government. I ask for nothing more than a close investigation of them year after year; I am ready to give the fairest explanation upon every the most trifling sum for which I have signed my warrant. I am confident and will ever consider it the first object of my care that a constant and zealous watch is kept over the proper expenditure of the public monies, and in so doing I think I have the right to expect or demand an immediate audit and sentence upon the period for which I have accounted. But it is objected that I have illegally expended the public treasure without Legislative appropriation. I must admit that I have done so, but my excuse is plain: I have been forced to do so for the public good. The House of Assembly refused the ordinary expenses of that system and machine of Government which I was placed here to conduct. I dare not allow it to, stop, and I cannot oblige the public functionaries to act, unless I also pay the salaries upon which their existence depends. My conduct has been guided by that of Mr. Pitt under circumstances precisely similar, and the sentiments of Mr. Fox upon the discussion of that great practical question, who justified Mr. Pitt's conduct even in language more forcible than any law could have used to meet all the scope of the difficulties. My accounts are stated annually, and have no relation to each other. It can not be difficult for any Committee of the House to settle, and close them. I therefore consider it an act of injustice to myself as well as a neglect of the public duties of the House to allow the Sessions thus to pass away without expressing an opinion upon them.

Embarrassed and pinned down by the knowledge that the House of Assembly grant me no latitude whatever, no confidence in any emergency of the public wants, or of the public service, I have acted with a spirit of economy bordering on parsimony in all that regards public finance. The revenue has annually largely exceeded the expenditure for the service of the year; but large demands of arrears, and of appropriations have added to and swelled the sum of public expenditure without being in any way created or controulable by me.

The recent declaration and exposure of the Receiver General will now shew the evils arising from not annually settling the public accounts. Had that been done, had the balance been fixed and the extent of it ascertained the large sum now deficient would not have been left at the use of that public officer uncontrollable by the Governor or Executive Government, and uncalled for by the constitutional guardians of the public purse.

This crisis will call for a new system to guard against the possibility in future, and it will at the same time bring under the consideration of the House the actual state of their finances.

My complaints of difficulties have been hitherto disregarded, my earnest entreaties and advice to ascertain the state of our finances have been unavailing.

Whilst the Legislature has been contending about forms, the substance of the Treasury has been used and the Province now stands, without any funds, which can be called its own, or worse than that it has incurred a debt to the Military chest of £30,000, advanced in 1822, and £30,000 more advanced this summer, 1823, to which must be added the amount of all unpaid appropriations in last session, a sum not less than £24,000, exclusive of the grant of the Chambly Canal. Such is the general state of our finances at this day.

Another subject yet remains for consideration. What are our means for the year now commenced?

Our debt contracted is	£80,000
Appropriations of 1823, unpaid,	24,000
Our necessary expenses for 1824,	70,000
Our probable appropriation, including the award to Upper Canada,	25,000
	£179,000
Our revenue to meet this,	90,000

And where also are we to find the means to go on, until the revenue comes into the chest?

These are questions which cannot be allowed to sleep, nor can I carry on the Government unless provision be made for them.

As the Governor of this Province deeply interested in its welfare, as the guide and conductor of its affairs responsible to the King and to the country for every measure that shall affect public prosperity, or cause the failure of that prosperity, I have ever borne in mind the great account I have to render of the duties imposed upon me by the commission I hold. I am ready to render that account, and justify myself in my conduct of the Government, and it is in the contemplation of that responsibility, that I have now thrown together my sentiments upon this branch of public affairs.

DALHOUSIE.

A SON EXCELLENCE MONSEIGNEUR LE COMTE DE
DALHOUSIE, ETC., ETC., ETC.

QUEBEC, 3 *Décembre*, 1823.

MILORD,—La lettre que Votre Excellence m'a fait l'honneur de m'écrire le 26 de Novembre, et que j'ai reçu hier, m'a confirmé dans la persuasion où je suis depuis longtemps, qu'un sentiment pénible éprouvé par Votre Excellence est la cause unique de cette extrême réserve que je considère comme un grand malheur public, et que j'ai toujours eu tant de peine à concilier, avec les bontés dont Votre Excellence m'honore, et je rends grâce à Votre Excellence de ce que vous avez bien voulu vous-ouvrir à moi sur ce malheureux obstacle au service du Roi, et au bien du pays.

Serait-il possible que l'Assemblée fut assez aveugle, et assez ennemies de ses intérêts, non seulement pour craindre mais même pour ne pas désirer que Votre Excellence communique, sans gêne et sans contrainte, avec son orateur? Manquer en même temps par un défaut de grandeur d'âme et par l'oubli de leurs intérêts, est ce qui arrive rarement aux hommes, et je puis assurer Votre Excellence que la Chambre d'Assemblée à trop de confiance dans le caractère connu de Votre Excellence, et connaît trop ses intérêts, pour concevoir un sentiment si injuste envers vous et envers elle-même.

Croyez-moi, Milord, s'il existe un sentiment bien général et bien prononcé dans la Chambre d'Assemblée, c'est

précisément l'inverse de celui dont Votre Excellence la soupçonne. C'est un regret bien vif de ce que Votre Excellence ne se communique point, et de ce que vos vues qui ne peuvent être que libérale, généreuse et bienfaisante comme vous-même, ne nous sont pas suffisamment connues. Pour être d'accord il ne faut souvent que s'entendre.

C'est dans la reconnaissance la plus sincère, que je remercie Votre Excellence, de la communication qui accompagne votre lettre. Fasse le ciel, qu'en méditant sérieusement cet exposé lumineux des vues de Votre Excellence sur un sujet si épineux, que je puisse contribuer par mes faibles moyens à applanir les difficultés dont il est fourmillé. Je suis surtout reconnaissant envers Votre Excellence, de ce que vous me permettez de faire un usage discrétionnel de cette communication privée, et j'ose assurer Votre Excellence, que cet usage sera guidé par l'amour du bien public et par ce profond respect pour Votre Excellence, avec lequel j'ai l'honneur d'être, Milord,

De Votre Excellence,

Le dévoué et fidèle serviteur.

VALLIERES DE ST. REAL.

4th December, 1823.

MY DEAR SIR,—I am truly happy to learn by your letter of yesterday, that there has been on my part a misapprehension of the public feelings in regard to our mutual communications: there can be little difficulty in removing such idea for the future, and should you see any subject or question in the course of your present deliberations which can be assisted by any explanation with me, be assured I shall give it you without reserve or hesitation. At 10 o'clock, every morning, you will find me ready and glad to see you, so that you will anticipate all other business and meet with no delay from me,

Believe me to be, with great esteem and regard,

Sincerely yours,

DALHOUSIE.

Mr. Vallieres de St. Real.

4 *Décembre.*

MILORD,—Je viens de recevoir la lettre de Votre Excellence, et il me serait difficile d'exprimer toute la satisfaction qu'elle me donne, cette nouvelle preuve de votre amour du bien public, et de votre désir d'y contribuer par tous les moyens qui sont en votre pouvoir, m'impose envers Votre Excellence les plus grandes obligations, et je ne suis embarrassé que par mon insuffisance à m'en acquitter.

Je me prévaudrai, Milord, de votre condescendance, j'aurai l'honneur de me rendre auprès de Votre Excellence chaque fois qu'il vous plaira de m'y appeler, et chaque fois que les affaires auront besoin de quelque explication de la part de Votre Excellence. J'y porterai bien peu de talent, mais beaucoup de bonne volonté, et les bontés de Votre Excellence à mon égard me font espérer beaucoup d'indulgence.

J'ai l'honneur d'être,

Etc., etc., etc.,

VALLIERES DE ST. REAL.

A Son Excellence

Le Comte De Dalhousie.

LORD DALHOUSIE TO LORD BATHURST.

CASTLE OF ST. LEWIS,

QUEBEC, 10th March, 1824.

MY LORD,—I have the honor to enclose to Your Lordship copy of the speech with which I yesterday closed the Session of the Provincial Parliament of Lower Canada. I will not add any remark upon it, as I trust the substance will lay before you at once the grounds of the existing differences, the state in which they are now left, and the impression these differences have made upon the minds of His Majesty's Executive Government here. I do so with the greater confidence because I communicated my speech to the Executive Council, and it was unanimously approved.

I trust Your Lordship will see the urgent necessity of adopting some decisive measures to put an end to these embarrassments in the conduct of the Governor, which every rational man here disapproves and loudly condemns.

I must at last unwillingly confess that I can no longer entertain any hope that good sense and moderation will calm the irritation in the House of Assembly, or induce them to forego their unconstitutional pretensions, and come to an understanding with the Upper House upon the mode of making provision for the wants of Government, it therefore rests now wholly upon the superior wisdom of the Imperial Parliament to decide the path in which the Executive Government of this Province is to move.

I beg leave to suggest as the first object to your consideration, that I should be authorised to aid the permanent revenue for this year by such sums from the unappropriated monies in the Provincial Treasury as may be necessary to defray the usual salaries and contingencies of the various departments of Government, and, secondly, that I may be instructed to pay back the several sums advanced from the Military chest in the years 1822 and 1823, at such time, and in such sums from the unappropriated monies in the Provincial Treasury as I shall see fit with the advice of His Majesty's Executive Council. This becomes urgent in consequence of the Assembly having refused to acknowledge these sums as a debt due by the Province, and having even censured the Governor for having advanced that aid of £60,000.

By this same opportunity I have the honor to forward several addresses from the two Houses of the Legislature, all important in their contents; but above all the others I beg leave to recommend to Your Lordship's attention the sentiments expressed by the Legislative Council upon the present state of the Province, in their address now forwarded to be laid at the foot of the Throne. It speaks the sentiments of all that is respectable in this country, and so far as I may presume to pass a judgment upon it I cordially concur in every sentence.

I have the honor to be, &c., &c.,

DALHOUSIE.

SIR F. BURTON, LIEUTENANT GOVERNOR, TO LORD DALHOUSIE, PREVIOUS TO HIS LORDSHIP'S DEPARTURE FOR ENGLAND ON LEAVE OF ABSENCE.

Brynmor. C.A. 1698. / 435. 5171. 6. 179. QUEBEC, 5th June, 1824.

MY LORD,—Since I had the honor to meet Your Lordship in Council this morning I have looked over the papers you then had the goodness to put into my hands.

Your Lordship must be aware of the very embarrassing and difficult circumstances under which I shall enter on the administration of this Government, but as you have not deemed it necessary to enter into any confidential communication with me concerning the state of public affairs, it is probable you have thought that a residence of two years in the Province has afforded me sufficient experience to enable me to execute the very important duties that will now devolve upon me. I cannot, however, refrain from expressing my regret at not being acquainted with the views and wishes of His Majesty's Government, (as well as with your own,) on many very important points that must have been the subject of your ministerial correspondence.

From motives of delicacy I have refrained from entering on these subjects with Your Lordship, thinking it more decorous for you to begin upon them, and to extend your confidence only as far as you judged proper, and I trust Your Lordship will do me the justice to acknowledge that I have uniformly, respectfully and zealously given every support in my power to your endeavours for the public good. I rely, therefore, on finding in your Secretary's office every information requisite for my guidance, and I shall esteem myself most happy if on your return to this country I can resign into your hands the Executive authority under more favorable and less embarrassing circumstances than those in which it has been relinquished by Your Lordship.

I have the honor, &c.,

F. BURTON.

SIR FRANCIS BURTON TO THE EARL BATHURST.

cf. Brynars 1898. C.A. 12. 401. Sub. date June 6. QUEBEC, 7th June, 1824.

MY LORD,—I have the honor to inform Your Lordship that the Earl of Dalhousie embarked yesterday for England, and immediately took his departure in His Majesty's Ship "Athol." The administration of the Provincial Government having thus devolved on me, I have this day taken the necessary steps in Council for entering on the discharge of the duties of Lieutenant Governor, and have issued the usual Proclamation on the occasion.

I have not received from the Governor in Chief any confidential communications respecting his correspondence with the Colonial Department, but he has given me to understand that I shall find every necessary information in his Secretary's office.

I must suppose Your Lordship is perfectly aware of the extraordinary difficulties and embarrassments that have of late arisen in this Government. They certainly are such as to render the situation of the person entrusted with its administration in no way an enviable one. I will, however, indulge a hope that, with Your Lordship's countenance and support, I may be enabled by degrees to diminish the existing difficulties, and to bring about a mutual good understanding between the Executive and Legislative authorities.

After two years residence in this Colony I can take upon me to say that the great mass of the Canadian population is loyal and well disposed.

The popular form of Government which has been given to them naturally tends to bring forward certain ardent spirits in the Legislative Assembly, and it is not to be wondered at that they have sometimes been enabled to oppose with success the views and wishes of Government; still I am willing to believe that even these may be led to unite in supporting the just prerogatives of the Crown, and the real interests of the people.

For the present I will only assure Your Lordship of my earnest and constant endeavours to this end.

I have the honor to be,

cc., cc., cc.,

FRANCIS N. BURTON.

This has not appeared probably July 13th Q. 168.-2
Bygone sub. note.
408.

**DRAFT OF A DESPATCH TO THE EARL BATHURST
FROM SIR FRANCIS BURTON.***

QUEBEC, 25th July, 1824.

MY LORD,—The failure on the part of the Colonial Legislature to provide for the deficiency of the revenue permanently appropriated towards the maintenance of the Civil Government having induced the Earl of Dalhousie to suspend the payment of the salaries of those public officers who are more particularly considered as belonging to the local establishment, (a list of whom I have now the honor to enclose,) I trust Your Lordship will permit me to submit the case of these individuals to your consideration, in the hope that I may receive special instructions concerning them previous to the next meeting of the Legislature, which cannot conveniently take place before the month of November.

That the Legislature is bound to provide for all the expenses of the Civil Government, agreeably to the estimate submitted to the two Houses in the year 1818, (when the offer of the Assembly so to do was first accepted,) or according to such other estimate as the Crown may recommend, will I think be apparent from the following statement of what previously took place.

On the 13th February, 1810, the House of Assembly voted addresses to His Majesty, and to the two Houses of the Imperial Parliament, representing that the prosperous state of the Colony enabled them to provide for the whole of the expenses of the Civil Government.

On the 14th they addressed the Governor in Chief, Sir James Craig, informing His Excellency that the House had resolved to vote in the then session *all* the expenses of the Civil Government, and beseeching he would be pleased to order the proper officer to lay before the House an estimate of the said Civil expenditure.

The Governor's answer was full and decisive: "I think it right that, by an Act of their own, His Majesty should be informed of the good disposition, gratitude and generous intentions of his subjects in this Province. I think it right also that His Majesty, by their own Act,

* Drafted, there is reason to believe, by Mr. Ryland.—R. O.

“should be formally apprized of the ability and of the
 “voluntary pledge and promise which the people of this
 “Province, by this address to their Sovereign, and by
 “the resolutions on which it is founded, have given to
 “His Majesty to pay the entire Civil expenditure when
 “required so to do, and consequently, without repugnance,
 “demand from them the performance of this solemn
 “undertaking on their part, whenever he may, in his
 “wisdom, think it expedient so to do.”

In your despatch of the 31st August, 1817, Your Lordship directed the then Governor in Chief, Sir John Sherbrooke, to call upon the Legislature annually to vote all the sums required for the ordinary annual expenditure of the Province, which was done in the speech at the opening of the Legislature, in January, 1818.

The address in answer is sufficiently conclusive. The House of Assembly therein renew the pledge formerly given, and estimates of the expenses and revenue for the year 1818 were consequently made out by the Chairman of the Committee of Audit, in conformity with instructions from the Governor. They were approved by His Excellency in Council, and subsequently submitted by his order to the consideration of three gentlemen of the Assembly, who having taken the private opinion of some other members, recommended an alteration in the arrangement of certain expenses, and a curtailment of others. Their suggestions were in part adopted, and the estimates were finally transmitted to the two Houses on the 27th February, 1818.

The Governor, in his message, states, “That from these
 “it appears the further sum of forty thousand two hundred
 “and sixty-three pounds, eight shillings and nine pence
 “currency, will be necessary to meet the current expenses
 “of the year.”

On the 26th March, 1818, the Assembly voted an address representing to His Excellency, “That the House,
 “having taken into consideration His Excellency’s recom-
 “mendation on the subject of the expenses of the Civil
 “Government of this Province for the year 1818, have
 “voted a sum not exceeding £40,263 8s. 9d. currency,
 “towards defraying the expenses of the Civil Government

"of this Province for the year 1818, *exclusive of the sums already appropriated by law.*"

On the 3rd February, 1819, an account of the actual expenditure during the year 1818 was laid before the Assembly by His Grace the late Duke of Richmond, from which it appeared that the estimate fell short of the expenditure. In this session a Bill was passed by the Assembly to make good the sum advanced upon their vote of the 26th March, 1818, which Bill was concurred in by the Legislative Council without any amendment. The Bill having obtained the Royal assent passed into a law, and it is to be remarked that the two Houses of the Provincial Legislature here agreed with His Majesty's Government in the principle upon which the accounts were stated, clearly and distinctly admitting that there was a revenue permanently established, *at the disposal of the Crown*, and over which they had no control, for the aid granted by the abovementioned Act was given out of the unappropriated funds, and over and above the sums already appropriated by law towards defraying the expenses of the Civil Government.

There still remained a small balance to be provided for, which lay over till the Session of 1823, when a Bill was passed to indemnify His Majesty for a certain sum of money necessarily advanced for the service of the Civil Government in the year 1818, over and above the sum appropriated by the Act 59 Geo. III, Cap. 25.

I now beg leave to submit to Your Lordship the conclusions which it appears to me may fairly be drawn from the foregoing statement:

First. That the House of Assembly, by their resolutions in the year 1810, pledged themselves to provide for all the expenses of the Civil Government.

Secondly. That the Governor in Chief accepted that pledge to be acted upon whenever His Majesty should see fit.

Thirdly. That in consequence thereof His Royal Highness the Prince Regent directed the Governor in Chief to call upon the Legislature to provide for the payment of the Civil expenditure.

Fourthly. That the Governor, acting in obedience to the commands he had received, desired the House of Assembly

of Session of 1823 were Assembly voted to draw on "General funds"

to provide for the expenditure of the year 1818, and the Assembly voted the whole sum called for, without any remonstrance.

Fifthly. That, notwithstanding the House of Assembly voted a credit without the concurrence of the Legislative Council, that branch of the Legislature, in the next session, concurred in a Bill for making good the sum so advanced upon the address of the Assembly.

Sixthly. That, in the Session of 1823, both branches were still agreed as to the principle of the accounts of 1818, and sanctioned the whole amount by making good the sums advanced to meet the actual expense incurred.

Seventhly. That by the proceedings here detailed the Legislature has in every way sanctioned the measures of the King's Government, with respect to the financial arrangements of the year 1818, and that now the Assembly cannot, consistently with good faith, refuse to appropriate such sums as may be necessary to meet the expenses of the Civil Government, over and above the permanent, casual and territorial revenue which is at the disposal of the Crown, provided those revenues are confined to the payment of such officers and contingencies as were included in the accounts of the year above mentioned.

Upon these grounds I respectfully submit to Your Lordship, whether in justice and sound policy I should not be authorised by His Majesty to pay the salaries of the public officers specified in the enclosed list, (amounting in the whole only to £ ,) which have been withheld since the 1st May last, till such time as His Majesty shall be pleased to sanction a different arrangement, and the two Houses of the Provincial Legislature concur in the course pointed out by the Crown.

I have the honor to be, &c., &c., &c.,

FRANCIS N. BURTON.

SIR FRANCIS BURTON TO LORD BATHURST, WITH
THE BILL OF SUPPLY.

QUEBEC, 24th March, 1825.

My LORD,—I have the honor to inform Your Lordship that I closed the Session of the Provincial Parliament

yesterday, with a speech from the Throne, a copy of which I enclose, together with one delivered by the Speaker of the House of Assembly, on presenting the Appropriation Bills.

It is with infinite satisfaction I acquaint Your Lordship that the differences which have so long subsisted between the Legislative bodies on financial matters have been amicably settled; and by the enclosed Bill Your Lordship will see that the Assembly have decidedly acknowledged the right of the Crown to dispose of the revenue arising out of the 14 Geo. III, and certain others, the produce of which is already appropriated by law, and that henceforth it will only be necessary to apply to the Assembly to make up the deficiencies of the revenues abovementioned, to defray the expenses of the Civil Government, and administration of justice.

I have to hope that the result of the late session will prove satisfactory to Your Lordship, and to observe that the Appropriation Bill passed the Council with only two dissentient voices, and that for the last twenty-five years there has not been so quiet a session.

I have the honor to be, &c.,

FRANCIS N. BURTON.

*Original. C.A. 1898. 434
Q 171.*

THE EARL BATHURST TO SIR FRANCIS BURTON.

DOWNING STREET, 4th June, 1825.

SIR,—I have received your two despatches of the dates of the 24th and 30th March ult.

In the first of those despatches you state “that you inform me with infinite satisfaction that the differences which have so long subsisted between the Legislative bodies on financial matters have been amicably settled, and that I shall perceive by the draft of a Bill which you enclose, that the Assembly have decidedly acknowledged the right of the Crown to dispose of the revenue arising out of the 14 Geo. III, &c.”

I regret that it is not in my power to consider this arrangement as in any degree satisfactory. The special instructions which had been given by His Majesty's com-

mand to the Governor General, in my despatches of 11th September, 1820, and 13th September, 1821, had imposed on him the necessity of refusing all arrangements that went in any degree to compromise the integrity of the revenue known by the name of the permanent revenue, and it appears to me, on a careful examination of the measures which have been adopted, that they are at variance with those specific and positive instructions.

The Executive Government had sent in an estimate in which no distinction was made between the expenditure chargeable upon the permanent revenue of the Crown, and that which remained to be provided for out of revenues raised under Colonial Acts.

In other words, had the whole revenue been raised under Colonial Acts, there would have been no difference in the manner of sending in the estimate.

The estimate was given in at £65,000 stg., of which the Assembly appear to have voted £58,074, as "amount of votes," &c., and £3537 specially provided for by Provincial Acts, and they refuse to incur any expenditure of £3390 for different items. Instead of the King's permanent revenue having certain fixed charges placed upon it, of which the Assembly were made cognizant, that revenue was pledged, together with the Colonial revenue, as the ways and means for providing for the expenses of the year.

The Assembly having calculated the amount of the permanent revenue and of the taxes received under Colonial Acts, proceeded to vote from the unappropriated revenues "such sum or sums as might be necessary to make up "and complete a sum not exceeding £58,074 stg.," and the extent of which must necessarily depend on the amount of the taxes received from the permanent revenue. The consequence of this arrangement is, that the permanent revenue will not be applied for the payment of such expenses as His Majesty may deem fit, but on the contrary for the payment of whatever expenses the Colonial Legislature may think necessary. And the only money to be raised under the King's revenue being thus appropriated, no means remains for the liquidation of those expenses formerly carried on the King's revenue, and many of them specially authorised by His Majesty, which have been

rejected by the Assembly in this instance. The appropriations of the permanent revenue of the Crown will always be laid by His Majesty's command before the House of Assembly as a document for their information, and for the general regulation of their proceedings. They will therein see what services are already provided for by the Crown, and what remain to be provided for by the Legislature, and they will be thus assured that the proceeds of the revenue of the Crown (whether more or less, and from whatever sources derived,) will exclusively and invariably be applied under the discretion of the King's Government for the benefit of the Province. With respect to the items rejected by the Assembly, I shall feel it my duty, after having given attention to each individual article, to give special instructions to the Governor General, on his return, to direct the payment of those which it may be thought expedient to continue.

As the Bill is limited to one year, I shall not think it necessary to recommend to His Majesty to disallow it, but confine myself to instructing His Majesty's Representative in the Province of Lower Canada not to sanction any measure of a similar nature.

I have the honor to be, Sir,

Your obedient servant,

BATHURST.

SIR FRANCIS BURTON'S ANSWER TO LORD BATHURST'S

DESPATCH OF 4TH JUNE, 1825.

QUEBEC, 25th July, 1825.

MY LORD,—I have the honor to acknowledge the receipt of Your Lordship's despatch of the 4th of June, delivered to me by Mr. Cochran, who arrived at Quebec on the 20th instant.

The unmeasured censure of my conduct, which Your Lordship has deemed it proper to convey to me in the present despatch, renders it necessary for me to enter more minutely into the particular circumstances under which I entered on the administration of this Government, than I should otherwise have thought it incumbent on me to do, more especially as in the very outset of my correspondence

with Your Lordship I took the liberty to apprise you of my embarrassment, and to solicit your commands for my guidance.

In reply to Your Lordship's observation respecting "the special instructions which had been given by His Majesty's commands to the Governor General, in your despatches of 11th September, 1820, and 13th September, 1821," I have to state that on entering upon the administration I made it my duty to read every despatch, document and paper, in the Governor's office, which referred to the Civil Government; that in the course of the Sessions of the Provincial Parliament I had frequent occasion to cause search to be made for papers, but that the despatches here mentioned have never been seen by me, nor do I know where they are to be found.

I will add that I should have been most happy to have been put in possession of any such instructions, as they would have placed me at perfect ease by leaving me no other course to pursue but to obey them.

In order to prove to Your Lordship how earnestly I coveted instructions I shall take the liberty to enclose a copy of a letter I wrote to Lord Dalhousie previous to his embarking, together with an extract of his answer in which he informs me that he had no other than the usual "Royal Instructions," to which he refers me. How then was it possible, My Lord, I could devine that other and more special instructions had been given to the Governor General?

In his Secretary's office, however, I found a copy of a despatch addressed to Your Lordship by the Earl of Dalhousie, dated 10th March, 1824, in which, after referring to his speech at the close of the session on the preceding day, he thus forcibly depicts the state of the Government under his administration :

"I trust Your Lordship will see the urgent necessity of adopting some decisive measure to put an end to these embarrassments in the conduct of the Governor, which every rational man disapproves and loudly condemns.

"I must at last unwillingly confess that I can no longer entertain any hope that good sense and moderation will calm the irritation in the House of Assembly, or induce

"them to forego their unconstitutional pretensions, and
 "come to an understanding with the Upper House upon
 "the mode of making provision for the wants of Govern-
 "ment. It therefore rests now upon the superior wisdom
 "and powers of the Imperial Parliament to decide the
 "path in which the Executive Government in this Pro-
 "vince is to move."

Such being the recorded sentiment of the Governor in
 Chief with respect to the Legislative bodies, after four years
 actual administration of the Government, after varying
 annually his mode of communication with them on finan-
 cial matters, and finding every mode equally unsuccessful,
 I certainly did not apprehend that I should incur the cen-
 sure of Your Lordship, by adopting a course which met
 with the almost unanimous concurrence of both Houses,
 there being only two dissentients in the upper, and three
 (I believe) in the lower, to the Bill which Your Lordship
 so strongly disapproves as to conclude your present des-
 patch with saying that, "as the Bill is limited to one
 "year, you shall not think it necessary to recommend to
 "His Majesty to disallow it, but confine yourself to
 "instructing His Majesty's Representative in Lower Can-
 "ada not to sanction any measure of a similar nature."

Your Lordship must pardon me if, overwhelmed as I
 am by unlimited censure where I had some ground to hope
 for approbation and applause, I venture to express a dissent
 from the opinion Your Lordship has been led to entertain
 respecting the Bill in question, if I venture to state that in
 the opinion of every member of the Assembly, and in that
 of the great majority of the Council, the Bill puts an end
 to all dispute respecting the revenue arising from the 14
 Geo. III, and certain other revenues which the Assembly,
 of late years, have contended for the disposal of, and that
 there is nothing in the Act which binds the Crown to any
 particular appropriation of the sum granted in addition to
 those revenues.

So fully did I entertain this sentiment, and so assured
 was I of the disposition of the leading members of the
 Assembly to meet the wishes of His Majesty's Government,
 that I waited only for Your Lordship's commands to pay
 such of the rejected items as His Majesty should think

Not in [unclear] C.O. 324/96. Answer to [unclear] 27th [unclear]

proper to retain on the Civil list, in full confidence that whatever was so retained would be included in the vote of the next session on recommendation from the Crown.

If I refrain from entering further into the subject at the present moment, if my present despatch is not accompanied by details and accounts which would prove that an erroneous impression has been made on Your Lordship's mind, with regard to the communications made by me to the Legislative bodies, concerning financial matters, it is because I deem it now unnecessary to give Your Lordship so much trouble, and because I am convinced by experience that no other mode of laying those subjects before the two Houses would have produced a more desirable effect.

I have the honor to be,

&c., &c., &c.,

FRANCIS N. BURTON.

SIR FRANCIS BURTON TO EARL BATHURST.

DUKE STREET, ST. JAMES, *4th May, 1826.*

MY LORD,—I have the honor to address Your Lordship under circumstances of a peculiar nature, and which are to me of painful importance.

It may perhaps be in Your Lordship's recollection that in an official despatch dated 4th June, 1825, addressed to me as Lieutenant Governor administering the Government of Lower Canada, Your Lordship expressed your decided disapprobation of the Act of Appropriation passed by the Provincial Parliament in the preceding session, and pointedly referred to my sanction of that measure as having been given in violation of the specific and positive instructions which had been conveyed by Your Lordship to the Governor General in despatches of the 11th September, 1820, and 13th September, 1821.

Your Lordship will also recollect that, in reply to this despatch, I had the honor to address to Your Lordship a letter dated 25th July, 1825, in which I entered into a full explanation of the circumstances under which I had been led to sanction the Legislative measure in question. In that letter I stated that although on the commencement

of my administration I had made it my duty to peruse every single document in the Secretary's office, I had never seen the despatches of 1820 and 1821, to which Your Lordship specifically referred me.

I, at the same time, enclosed the copy of a letter which I had written to the Earl of Dalhousie, previous to his embarkation, expressive of my deep regret that His Lordship had not confidentially communicated to me any directions which he might have received from the King's Ministers, respecting the public affairs of the Province, and of my anxious hope that in the Secretary's office I should find all the official documents that might be requisite for my guidance, and I added an extract of a letter in reply from His Lordship, stating that he had no confidential instructions but those which he had already placed in my hands, and others which were to be found in his Secretary's office.

I have the gratification of reflecting that by a letter of the 30th September, 1825, acknowledging the receipt of mine of the 25th Ju'y, Your Lordship was pleased to direct that the despatch of the 4th June, having been written under the mistaken impression that I had been in possession of all the correspondence between Your Lordship and the Governor General, and particularly of the instructions before mentioned of 1820 and 1821, should be considered as withdrawn, and the expression of Your Lordship's regret was limited to the single point of my having carried into effect the arrangement in question, without having previously entered into a direct communication on the subject with His Majesty's Government.

This letter did not reach Quebec till I had quitted the Province for Europe, and till the administration had been resumed by Lord Dalhousie, and having been addressed to me, it was opened by my friend Mr. Daly, Assistant Secretary, and by him placed in the possession of Mr. Cochran, Secretary to Lord Dalhousie, on or before the 31st of January last: consequently it cannot be doubted that its contents were made known to the Governor in Chief long previous to the 14th March.

By the latest intelligence from the Province, it appears that, on the 14th of March last, the Governor in Chief sent

a message to the House of Assembly, in which he represented it as his indispensable duty to lay before the House the copies of two despatches which had been addressed to me during his absence in England, stating at the same time that he had obtained special permission to make the House such a communication, which was laid on the table of the House accordingly: one was the despatch of the 4th of June already mentioned, but it was not accompanied nor afterwards followed by that of the 30th September. It appears further, that on the receipt of this message the House presented an address to the Governor, praying for any further information upon the subject, which might have been received by His Excellency since his return to the Province, and that they were informed by him, in reply, that he had not received any despatches from the Secretary of State for the Colonies subsequent to the date of that which he had already communicated.

It is the intelligence of these proceedings, which, affecting me with infinite surprise and concern, compels me to claim the attention of Your Lordship to my present appeal.

Even if the despatch of the 4th of June had not been followed by that of the 30th of September, from Your Lordship, it could not but be known to Lord Dalhousie that the former had been penned on a natural, though erroneous, supposition of my acquaintance with certain instructions which, nevertheless, had neither been imparted to me, nor were to be found in the Secretary's office, in conformity to which, therefore, His Lordship must have been fully sensible that it was not in my power to act.

Whatever considerations, therefore, of public feeling may, in the judgment of His Lordship, have imposed on him the duty of communicating to the House of Assembly the censure contained in the despatch of the 4th June, it could scarcely fail to occur to His Lordship as equally a duty, both to the character of the individual whom the charge affected, and to the dignity of the Government vested in his person, that the publication of the censure should be accompanied by some notification of the circumstances which obviously made it inapplicable.

Supposing, however, that the forms of state might have rendered it difficult to the Governor General, gratuitously

to accompany the communication of the first despatch with such an explanatory statement as I have alluded to, yet the actual possession by him of the subsequent despatch afforded an easy and natural method by which the object could have been accomplished. By imparting both despatches together the effect of the communication would have been confined to the public purposes which had suggested it, and would have prevented a manifest injustice towards me individually.

That the Governor General should not have availed himself of this obvious method of proceeding, in the first instance, must occasion surprise; but this surprise increases to absolute astonishment, when in his reply to the application of the House of Assembly, soliciting further information on the subject, he withholds Your Lordship's subsequent despatch to me, of the 30th of September.

From the terms of that reply I must collect, that, in the opinion of Lord Dalhousie, a despatch avowedly addressed to me by Your Lordship, as Lieutenant Governor administering the Government, and received by him after my departure for Europe, was yet not a despatch acknowledged by him in the sense intended by the House of Assembly. If such a distinction was to be relied on, I regret that it should not have suggested itself to His Lordship at the time when he solicited permission to lay before the Assembly the prior despatch of the 4th June, which he appears to have considered an available document to be communicated singly to that body.

By the course which Lord Dalhousie has thought proper to pursue, my public character becomes exposed to a censure which I feel I do not merit, and which I have not the means of repelling without Your Lordship's powerful intervention.

Thus situated, and under the influence of sensations to which I cannot easily do justice, I have thought it incumbent on me to submit this plain statement to Your Lordship. In what manner I may best be exonerated from the stigma thus openly affixed to my character, and relieved from the consequent wound inflicted on my feelings, I think it most respectful to leave to Your Lordship to decide, I cannot doubt, under all the circumstances of the

case which I have deemed it my duty to lay before you, that Your Lordship will see the necessity of devising some immediate and effectual means of affording me the redress to which I feel I am fairly entitled.

I have, &c.,

FRANCIS BURTON.

A MILITARY MAN'S IDEAS ON THE CONSTITUTION AND GOVERNMENT OF LOWER CANADA.*

The constitution of Canada differs essentially from that of every other colony of Great Britain. It is in fact an epitome of the constitution of England, the only point of difference is, that the seats in the Legislative Council are not like those of the Peers of England, hereditary.

In conducting the Government of this Colony this strict analogy to the constitution of the parent state should never be lost sight of, nor can those general principles of Government, applicable to other colonies, be always safely applied to this.

Let us see how the assertion can be borne out. The jealousy with which the people of *all* colonies view the measures of Government is doubtless quickened in *this* by the circumstances of their being of a different extraction, and professing a religion different from that of their rulers. To this may be added the influence and example of those revolutionary principles which are fast spreading over this continent, and which, though wholly inapplicable to a people enjoying a degree of freedom and happiness unparalleled in the world, must still be reckoned among the causes, not the least powerful, by which the turbulent and the factious mislead the ignorant and the weak. To a people in no respect identified with their rulers, French in their origin, their language, their habits, their sentiments,

* Supposed to be by the late Sir John Harvey, subsequently Lieutenant Governor of Prince Edward Island, New Brunswick, Newfoundland, and finally, Nova Scotia, where he died universally regretted and respected, as he had been in the other Provinces with the governments whereof he had been entrusted. I, however, understand that it is also supposed to be from Lieut. General Evans, (now residing in Montreal,) and who formerly served with distinction in Canada.

R. A.

their religion,—English in nothing but in the glorious constitution which that too liberal country has conferred upon them,—the sole effect of this boon has been to enable them to display, in a *constitutional manner*, those feelings of suspicion, distrust and dislike, by which the conduct of their representatives would warrant us in believing them to be animated towards their benefactors.

The House of Assembly of Lower Canada has not ceased to manifest inveterate hostility to the interests of the Crown, it has withheld its confidence from the local Government, and has, through this blind and illiberal policy, neutralized as far as it could every benefit which that Government has wished to confer upon the people, and that the popular representatives have acted in unison with the feelings of their *constituents* the fact of *their* having invariably sent back those members whose opposition to the Government has been most marked may be thought sufficiently to prove.

Ought not such a people to be left to themselves, to the tender mercies of their gigantic neighbours, whose hewers of wood and drawers of water they would inevitably become in six months after the protection of the British fleets and armies had been withdrawn from them? The possession of this dreary corner of the world is productive of nothing to Great Britain but expense. I repeat that the occupation of Canada is in no respect compensated by any solid advantage.

Nevertheless, it pleases the people of England to keep it much for the same reason that it pleases a mastiff or a bull-dog to keep possession of a bare and marrowless bone towards which he sees the eye of another dog directed. And a fruitful bone of contention has it, and will it prove, betwixt Great Britain and the United States before Canada is merged in one of the divisions of that empire, an event, however, which will not happen until blood and treasure have been profusely lavished in the attempts to defend what is indefensible, and to retain what is not worth having. As we are doomed to retain it, however, let us see how it is to be governed.

It is assumed that the House of Assembly will do as little good and as much mischief as may be in its power how then are we to promote the ~~the~~ and to counterac

the latter? Happily, the constitution which ministers what is baneful in the powers which it gives to the Lower House presents us with an antidote in those with which it has clothed the upper one. It is then to the Legislative Council, as to the House of Peers, that we must look for the true constitutional check upon the turbulent demagogues of the Assembly, and if that Council be composed as it ought, the Government of Canada will be carried on with comparative ease and satisfaction, and if the greatest possible quantum of good be not conferred on the people the fault will not rest with the paternal Government of the King or of *his* representative, but with those of the people.

Whatever measures of real utility may originate in the Lower House will meet with no check in the Council, nor will the King's Representative have any hesitation in confirming by his assent that which comes to him recommended by those two branches of the Legislature, and the merit and grace of all such measures will rest, as is just, with those by whom they are originated. On the other hand all measures of a wild, injurious, ill-advised party, or impracticable nature, will receive their quietus in the Council, and will not be permitted to reach the Throne. Thus by the interposition of this constitutional check, the most dangerous of all possible collisions (that betwixt the King and the people) is avoided, and the balance of the constitution preserved.

Important as are the duties which the members of the Legislative Council have to perform, it will be obvious that much care should be used in their selection. The weight and importance of this branch of the Legislature, if firmness, moderation and good sense prevail in their Councils, *must* ere long be felt and acknowledged throughout the Province.

With the view to accelerate this state of things, and the advantages to the country, which must flow from it, it is strenuously recommended that every possible degree of publicity be given to its deliberations. The measure of throwing open the Council doors adopted a few years ago, was one step towards this, but it is by no means sufficient. Their proceedings and debates should be published and diffused in the French language throughout the Province.

Their temper, their moderation, their good sense, their genuine patriotism, when contrasted with the opposite qualities, as displayed in the other House, cannot but work their due effect, for let me do the Canadian people the justice to admit, that though they are still *French* (which, having been a British colony upwards of three score years, they ought *not to be* and are *not English*, which for the same reason they ought by this time to have been,) but this is not wholly their fault; they possess many excellent and valuable qualities. They are not loyal as regards the *person* of the King of England, but they are devotedly attached to their country, and I firmly believe prefer the protection of England to that of any other power, *France alone* excepted, and they well know that France *could not* protect them.

THE ATTORNEY GENERAL STUART'S OPINION RESPECTING THE SEMINARY OF MONTREAL.

To His Excellency Sir James Kempt, Knight Grand Cross of the Most Honorable Military Order of the Bath, Lieutenant General and Commander in Chief of all His Majesty's Forces in the Provinces of Lower Canada and Upper Canada, Nova Scotia and New Brunswick, and their several dependencies, and in the Island of Newfoundland, and Administrator of the Government of the Province of Lower Canada, &c., &c.

MAY IT PLEASE YOUR EXCELLENCY :

I have been honored with the commands of His Excellency the late Governor in Chief, signified in Mr. Secretary Cochran's letter of the 17th June last, transmitting an extract from a Report of His Majesty's Executive Council, of the 6th May preceding, on a reference respecting the Seminary of Montreal, and requiring my opinion on certain points specified in that Report, and also such information and suggestions on the subject as I might have it my power to offer.

In obedience to these commands I have considered the matter referred to me, and with all deference have now the honor of submitting to His Excellency the Adminis-

trator of the Government the opinion and information which have been required.

Before proceeding to state this opinion, it would seem fit to mention succinctly the facts on which it is grounded, and which are of public notoriety, or cannot be questioned.

On the 9th March, 1663, an association of individuals which had been established for the conversion of the Indians, on the Island of Montreal, and known under the name of, "Les associés pour la conversion des Sauvages de la Nouvelle France, en l'Isle de Montreal," executed a deed of gift to the Seminary of St. Sulpice of Paris, of the whole Island of Montreal, which was then and had been for some years previously held by that association, as a Seigniorship *à titre de fief*. In this instrument, the motive of the gift, and the purpose of its application are expressly stated to be the conversion of the Indians of New France, and it is declared that "le domaine et propriété de la dite île sera inséparablement uni au dit Séminaire sans en pouvoir être séparé, pour quelque cause et occasion que ce soit." Fourteen years after the execution of this deed of gift, His Most Christian Majesty, by letters patent bearing date in May, 1677, authorised the establishment of a Seminary at Montreal, for effectuating the object for which the Island had been thus given to the Seminary of St. Sulpice.

In these letters patent, after reciting the deed of gift abovementioned, and stating that the Seminary of St. Sulpice at Paris had successfully employed Missionaries whom they had sent out, in the conversion of the Indians, on the Island of Montreal, and were desirous of establishing a community there in furtherance of that object, if His Majesty should be pleased to grant his permission to that effect, it was declared that on these considerations His Majesty authorised the Seminary of St. Sulpice at Paris to erect a Community and Seminary of Ecclesiastics on the Island of Montreal, for the accomplishment of the purpose in view; and expressing his approbation of the deed of gift. His Majesty granted his license to the Seminary of St. Sulpice at Paris to hold in mortmain the Seigniorship of Montreal, which had been granted to them by that de l, ~~declaring~~ it to be his will and pleasure

“ qu'elle soit unie, à perpétuité, à leur société, etc., pour
 “ en jouir par eux et leur successeurs, etc.”

Under the deed of gift abovementioned, and the letters patent in part recited, the Seminary of St. Sulpice at Paris, having become possessed of the Island of Montreal, established a Community of Ecclesiastics there, which has been since known by the name of the Seminary of Montreal.

This community under the letters patent of May, 1677, was necessarily composed entirely and exclusively of members of the Community of St. Sulpice of Paris, which latter community continued, in its own name, to exercise acts of ownership in relation to the Island of Montreal, down to the period of the conquest by the British arms, in 1760; and in all public instruments anterior to that period, in which the ownership of the Island was in question, or made mention of, the Seminary at Paris was invariably designated and referred to as the owner of it.

By the capitulations which preceded the conquest of Canada, no stipulation was made, under which the members of the Seminary of St Sulpice at Paris, or of the Seminary of Montreal, could claim a right to subsist as a corporation. On the contrary although a demand to that effect was made it was expressly negatived. The 32nd Article of the capitulation which preceded the surrender of Montreal permitted the Communities of Nuns to subsist, in the following words, viz: “The Communities of Nuns shall be preserved in their constitutions and privileges; they shall continue to observe their rules, &c. Granted.” But by the 33rd Article of the same capitulation a similar right was refused to the Seminary of Montreal, in the following words, viz: “The preceding Article shall likewise be executed with regard to the Communities of Jesuits and Recollets, and the House of the Priests of St. Sulpice at Montreal; these last and the Jesuits shall preserve their right to nominate to certain curacies and missions, as heretofore refused, till the King's pleasure be known.”

By the 4th Article of the Treaty of Peace concluded between His Britannic Majesty and His Most Christian

Majesty, on the 10th February, 1763, the latter ceded and guaranteed Canada and all its dependencies to His Majesty, in full right, with the Sovereignty, property, possession thereof, &c., and it was agreed on the part of His Majesty to grant the liberty of the Catholic Religion to the inhabitants of Canada, with permission to such of them as chose to retire, to sell their estates, and emigrate thence within eighteen months.

Four years after the conquest a conveyance bearing date the 29th April, 1764, was executed by certain members of the Seminary of St. Sulpice at Paris to a Mr. Montgolfier, in character of Superior of the Seminary of Montreal, the object of which was to convey and assure to that Seminary the estates possessed by the former in Canada, of which the Island of Montreal made part. To this instrument a specific name can hardly be given, but it would seem to possess the character of a deed of gift rather than that of any other description of conveyance. In it a recital is given of the several titles under which the Seminary of St. Sulpice at Paris had acquired its estates in Canada, and the members of that Seminary, who are parties to the instrument in consideration, (as they state,) of the difficulties and embarrassment in which they found themselves involved by the conquest, grant and make over all their estates in Canada to the Seminary of Montreal.

Subsequently to the conquest a certain number of the members of the Seminary of St. Sulpice of Paris, who were in Canada at the time that event occurred, continued to reside there, retaining possession of the estates which had belonged to that community, and it is supposed that the survivor of these individuals died at Montreal about the year 1795 or 1796. As well before as since his death, the estates have been and continue to be in possession of persons who ascribe to themselves a corporate character, as composing the Seminary of Montreal, and who have received and applied the revenues derived from them to such purposes as they have thought fit, without having been subjected to any visitation control or accountability whatever, in the disposal of them.

The gentlemen composing this body, since the period last mentioned, with few exceptions, have been natives of

France, not naturalized; and the Rev. Mr. Roux, in particular, who since that period has been and still is Superior of the Seminary, is a native of that country, and has not been naturalized, though he has received within the colony Letters of Denization.

The purpose for which the original donors granted the Island of Montreal to the Seminary of St. Sulpice of Paris, namely, "the conversion of the Indians," has, since the establishment of the Seminary at Montreal, it is also proper to state, been entirely overlooked and neglected. It does not appear that the revenues derived from the Island, which, it is known, have been very considerable, have ever been applied to the fulfilment of the object for which that estate was given; and this condition, on which the grant was made, and the Seminary of Montreal received its legal existence, continues to be unaccomplished. The Seminary of Montreal has indeed, it would appear, altered the purpose of its institution, which was of a special and specific nature, by applying its funds to an object which would properly belong to a Diocesan Seminary, under the guidance and control of the Bishop, namely, to the education of persons intended for the Priesthood, with which it has conjoined the education of the French Canadian youth generally. For this purpose it has maintained an institution called a College, on a considerable scale. To what other objects the revenues of its estates may have been applied is not known, though it is understood that large sums were some years since expended by the Seminary in the establishment of another Seminary and College at Baltimore, in the United States of America.

On these facts the following questions would seem to embrace the several points on which I am desired to give an opinion, and also the information which is required:

10. What was the effect of the conquest of Canada, with respect to the estates held there by the Seminary of St. Sulpice of Paris?

20. Was the conveyance from the Seminary of St. Sulpice of Paris to the Seminary of Montreal, on the 29th April, 1764, legal, and can the latter Seminary derive any right to the estates in question under that conveyance?

30. Had the Seminary of Montreal ever any legal existence as a corporation distinct from the Seminary of St. Sulpice of Paris, and is it now a subsisting corporation?

40. What is the legal course to be taken for the purpose of enforcing the rights which have accrued to His Majesty in the estates held by the Seminary of Montreal, and also to obtain a judicial determination on the claim of the Seminary of Montreal, to a corporate character?

Upon the first question,—I conceive no doubt can be entertained that the Island of Montreal, being the property of the Seminary of St. Sulpice of Paris, a religious community, established and subsisting there at the time of the conquest, or to speak more accurately, being public property in the hands of that community as trustees for its administration and application, was acquired by His Majesty by right of conquest, and must be understood to have been since held by the persons in possession of it by the sufferance of His Majesty, and subject to such appropriation, uses and purposes, as His Majesty may think fit to declare. There is, I apprehend, no stipulation in either of the capitulations which preceded the conquest of Canada, under which the Seminary of St. Sulpice at Paris could claim an exemption from the operation of the law of nations in this particular, under which His Majesty's right has been derived. But independently of this source of right, the legal estate in the Seigniorship of the Island of Montreal being vested in a foreign religious community incapable after the conquest of holding lands in a country subject to His Majesty's dominion, the right of property in it, from this cause alone, would necessarily devolve to His Majesty.

Upon the second question,—If, as assumed in the answer to the preceding question, no right could be claimed by the Seminary of St. Sulpice of Paris, under the capitulations to sell their estates in Canada, the alleged disposal of it by deed of gift would of course be null and void. But I am humbly of opinion, that on other grounds the pretended deed of gift of the 29th of April, 1764, must be considered an absolute nullity. Under any circumstances, and with the observance of any formalities, I should conceive the Seminary ~~could not~~ could not alienate the

estates held by them in Canada. They were vested with no right of property in these estates, but held them merely as trustees or administrators for a charitable public use or purpose, and being incapable of conveying to another person a larger extent of right in the estates than they themselves held, it must, I apprehend, be considered that they could not alienate them in any form. But in the particular mode of conveyance which they adopted, it is certain they could not dispose of them legally.

In the deed of gift referred to the grantors and grantees were members of one and the same corporation, they had individually no beneficial right or interest whatever in the estates which were made the subject of the conveyance. These were not the property of the individuals composing the corporation, but that of the corporation itself, *res universitatis*, and were therefore incapable of alienation by one part of the members of the corporation to another part, nor were they susceptible of partition among them. On this ground, the deed of gift must be held void from the disability of the contracting parties to enter into such a contract. But it was also absolutely void on the ground of the incapacity of the grantees to take the estates proposed to be conveyed to them. If (as is not admitted but denied) the Seminary of Montreal had been a subsisting corporation, distinct from the Seminary of St. Sulpice, it could not have taken the estates in question without a license in mortmain. The French as well as the English law rendered "*lettres d'amortissement*," or a license in mortmain indispensably necessary for the validity of the deed of gift in question. Even if, in other particulars, it could have been deemed valid, the nullity of it, from the want of such authority, cannot be doubted.

Upon the third question,—Under the French law, as it has obtained in this Province, no corporation could be established otherwise than by the Royal authority, which was conveyed by letters patent. No length of possession of a corporate name and character was of any avail in conferring a corporate existence, without this authority. Nor was it competent to corporations already existing, to form new establishments, institutions or religious houses, without the express permission of the government.

It was in conformity with the law on this head that the Seminary of St. Sulpice of Paris, a subsisting corporation, legally established, applied to His Most Christian Majesty to form a Seminary or religious house at Montreal, for the accomplishment of the intentions of the original donors of the Island of Montreal, in granting that island to them. In compliance with this application, His Most Christian Majesty, by letters patent of May, 1667, permitted them to form a Seminary at Montreal; but this Seminary was to be composed of the members of the Seminary of St. Sulpice at Paris, and of no other persons, and was therefore only an institution of the corporation of St. Sulpice at Paris under a different name, and a mere dependence of that corporation, whose principal establishment or house was at Paris.

On this ground, I am humbly of opinion that the Seminary of Montreal never had legal existence as a corporation distinct from the Seminary of St. Sulpice at Paris. But if it could be said to have had such corporate existence, I am also of opinion that, on several grounds, it has long since lost it, and that it has since a distant period been merely a private association of individuals, who have without authority assumed to themselves a corporate name. In the absence of any stipulation to the contrary by capitulation or treaty, the conquest of Canada, I apprehend, by the law of nations, extinguished all political institutions and franchises derived from the authority of the Sovereign from whom Canada was wrested by force of arms; and, among these the Seminary of Montreal, if it had legal existence as a corporation, became extinct. But this point does not rest on the general effect of a conquest, in extinguishing political franchises, inasmuch as in this particular case, upon a demand made in the proposed capitulation of Montreal, that the Seminary should be preserved in its constitutions and privileges, this demand was expressly refused, till the King's pleasure should be known. And I am not aware that, by any legal signification of the Royal pleasure, the Seminary of Montreal has since been re-integrated in a corporate character, if such it ever had.

But from the nature of the constitution of the Seminary of Montreal it was utterly impossible that, under any

circumstances, without a new charter, its existence as a corporation (if such it had) could be prolonged beyond the lives of the members of the Seminary of St. Sulpice, who remained in Canada after the conquest. For, as no persons could be members of the Seminary of Montreal, who were not members of the Seminary of St. Sulpice at Paris, and as a supply of new members could not be derived from the parent establishment after the conquest, the duration of the Seminary of Montreal was necessarily limited to the lives of the members who remained in Canada; and the last of these having died about the year 1795 or 1796, the Seminary necessarily became extinct at that time by the death of all its members.

In this respect the Seminary of Montreal, and also the Recollets and Jesuits were disadvantageously distinguished from the other religious communities in the Province, inasmuch as the latter, according to the rules of their foundation, could obtain a renewal of their members by a domestic supply, whereas the former could only receive it from the alien parent establishments in Europe, to which they belonged, and this source was closed by the conquest. The latter might avail themselves of a permission from His Majesty to elect new members after the conquest, the former could not. The means which appear to have been resorted to by the Seminary, since the death of the survivor of its members who continued to reside in Canada after the conquest, to supply the requisite succession in the persons composing it, namely, the introduction of aliens, members of the Seminary of St. Sulpice at Paris, to assume places in the Seminary at Montreal, I am humbly of opinion have been illegal. The conquest having had the effect of severing the Seminary of Montreal altogether from the Seminary of St. Sulpice at Paris, no title to a corporate right in the former could be derived from the latter after that event, and persons subsequently admitted to be members of the latter Seminary could, therefore, have no claim, on that ground, to be members of the former. Besides, as being aliens, they would be disqualified from being so. According to the law of France and the law of this Province as it now stands, aliens and even denizens are incapable of being members of a corporation.

The French law as it was received into this Province prior to the conquest was particularly rigid on this head. Pothier, one of the best writers on that law, in his "*Traité des personnes*," says, "Les étrangers ne peuvent ni posséder un bénéfice, ni tenir un office, ni faire aucune fonction publique dans ce royaume." And he refers to an ordinance of 1431, "qui rend les étrangers, de quelque qualité qu'ils soient, incapables de tenir archevêchés, évêchés, abbayes, dignités, prieurés, et autres bénéfices, de quelque nature qu'ils soient, en France." He also states that this disqualification extended to the chief offices in seats of learning, and that aliens could not be principals or regents of a university. Letters of naturalization, or "*lettres de capacité*," were indispensably necessary to remove this disability. Aliens not naturalized, or rendered competent by a special dispensation, which is to be understood by "*lettres de capacité*," could not, therefore, occupy places in any religious corporation in this Province.

It is also fit to be observed that the Seminary, if it had a corporate existence, might be considered to have forfeited it, by a non-fulfilment of the condition on which it was established.

It is a matter of notoriety that there has been a *non-user* of the franchise which was granted to the Seminary of St. Sulpice of Paris, by the letters patent of May, 1667. Neither the labours nor the revenues of the Seminary of Montreal have been or are likely to be applied to "the conversion of the Indians." There is, therefore, a large disposable eleemosynary fund in the hands of the Seminary of Montreal, which may receive such application as His Majesty's Government, in its wisdom, may deem proper.

Upon the fourth question,—A real action, called in the law of this Province an *action petitoire*, may be brought in the name of His Majesty against the persons in possession of the Seigniorship of the Island of Montreal, by which I am humbly of opinion that His Majesty's rights may be effectually enforced, and the possession of that estate obtained. In order, also, that a judicial determination may be formally had on the claim of the Seminary to be a corporation, an information *quo warranto* might be filed against the

persons who have assumed to themselves a corporate character, under the name of the Seminary of Montreal.

By these remedies, I am humbly of opinion, the rights of His Majesty may in all particulars be secured and maintained.

All which, nevertheless, is most respectfully submitted to Your Excellency's wisdom, by

Your Excellency's

Most obedient humble servant,

J. STUART,

Attorney General.

Quebec, 10th December, 1828.

LETTER TO LORD AYLMER, RESPECTING THE POLITICAL STATE OF LOWER CANADA, AUGUST, 1853, 1853

BEAUPORT, 14th August, 1833.

MY LORD,—I have been honored with a communication of Your Lordship's letter of last week, to Colonel Craig, in which you were pleased to mention me, and the extract of Mr. Stanley's despatch of the 6th June, to which that letter refers.

From the tenor of this despatch I am led to believe that His Majesty's Ministers entertain a correct idea of the nature and tendency of the proceedings of our House of Assembly in the last session, with regard to the Supply Bill; and I would fain persuade myself that the Secretary of State may yet be induced to call the attention of the Imperial Parliament, during its present session, to the Act of 1st William IV., for amending the Act of 14th George III., with a view to the repeal or suspension of the Amending Act, till such time as the several branches of the Provincial Legislature shall concur in a constitutional Bill of Supply.

It is evident that the leaders of the Assembly, and their agent in England, have, for a series of years, been pursuing a course calculated to deceive His Majesty's Ministers, to annihilate the constitutional power and influence of the Crown in this Colony, and to check emigration from the parent state.

If the preposterous pretensions of the Assembly, to prescribe by an annual Bill the terms and conditions on which every servant of the Crown in this Province shall be admitted to office were acceded to, few Englishmen would wish for office here, and emigration to this part of the British dominions would be put an end to till such time as the rapidly encreasing population of Upper Canada should pour down upon and overwhelm the French inhabitants of the Lower Province, and this time it appears to me is not far distant for, by all we hear and read concerning the improvements in that part of His Majesty's dominions, we are justified in believing that its population is augmented by the adoption of a system which produces as great and astonishing effects as those derived from steam in the various uses to which it is applied.

I feel confident therefore that the policy of Government with respect to the Canadas must shortly be changed, and that their union under one Legislature must soon take place.

I cannot on this occasion refrain from noticing the deplorable state to which the officers of Government in this Province are reduced by the withholding their salaries for so long a period. The means of counteracting the intentions of the leaders of the Assembly appeared to me so evident, and so much within the power of the Imperial Government, that I entertained no doubt of the success of Your Lordship's endeavours to procure common justice for them. Till this is obtained the political state of Lower Canada will be such as was never before witnessed in a British Colony, and I apprehend that the next Session of the Provincial Legislature will be as unsatisfactory to Your Lordship as it will be to every man who is influenced by principles of loyalty, and a sincere attachment to the British constitution.

I pray God to guide Your Lordship successfully through the political course which is now before you, surrounded as it is by difficulties of the most unusual and embarrassing nature.

I have the honor to be, with the greatest respect,

(Signed,)

H. W. RYLAND.

SOREL, 20th August, 1833.

DEAR MR. RYLAND,—I return you many thanks for your obliging communication of the 14th instant. I believe there exists no difference of opinion between us on the subject of its contents, and of this I believe you will be convinced when you become acquainted with the contents of my despatch of yesterday's date, in reply to Mr. Stanley's despatch of 6th June, which I have directed Lieutenant Colonel Craig to communicate to the Executive Council, previously to forwarding it to England by the river.

The contents of the July Mail (received here this morning) do not throw any *new light* on the financial question, the view of which appears to have undergone no change in Downing Street.

It is to be remarked, however, that the receipt of my despatch of the 13th May, (which accompanied the opinion of the Law officers of the Crown,) is not acknowledged, and therefore it was not probably received when the mail bag was closed in Downing Street.

It *may* be that those opinions will have the effect of producing some change in regard to the construction of the Act of 1 and 2 William IV.

I remain,

Dear Mr. Ryland,

Your very faithful servant,

AYLMER.

LETTRE DE M. L. FROMENTEAU, CONTENANT QUELQUE DESCRIPTION DE GASPÉ, ET AVIS SUR SES COURS DE JUSTICE, A MR. J. A. PANET.

QUEBEC, 15 Mars, 1794.

MONSIEUR,—En ce que vous m'avez fait l'honneur de me dire, que ce serait vous faire plaisir que de vous donner une petite description du local du District de Gaspé, je vous prie d'agréer celle que je vous en donne ci-dessous. Je commence :

Ristigouche est la partie de ce district la plus éloigné de Québec, en étant distant de 180 lieues, plus ou moins ; la rivière de ce nom a environ huit lieues, de son embouchure, aux îlots, où commence les rapides, elle est bordée de

terres fort hautes, et de montagnes; un petit nombre d'habitans, un village sauvage, et une église y sont établies. Le sol en est bon et très propre à l'agriculture. Environ 1500 à 2000 tierçons de saumons y sont pêchés annuellement, dont la valeur peut être de 3 à 4000 louis du cours; plusieurs lopins considérables de terrain y sont concédés, la cultivation desquels est encore trop nouvelle pour pouvoir juger du succès qu'elle y aura.

Depuis la Nouvelle de Carleton à Maria, cet espace qui est de six lieues est tout établi; environ 180 familles y vivent en grande partie du produit des terres qu'ils y cultivent. A Carleton une église de 70 pieds de long sur 40 de large y est construite, et ici le curé missionnaire fait sa résidence ordinaire.

Richmond, qui n'est séparé de Maria que par la Baie de Caskapaya, peut avoir 20 à 25 habitans, qui tous cultivent, et font la pêche du saumon.

Hamilton est le premier établissement de cette baie, ayant eu lieu en 1762 par 9 familles canadiennes, dont le nombre peut être aujourd'hui de 30 à 40 familles, lesquelles tirent en grande partie la vie et l'habit du produit des terres qu'elles cultivent; il en est ainsi de la plupart des habitans depuis la Nouvelle de Carleton, y compris Richmond: ici une chapelle est construite.

Les revenus annuels des terres de ces différentes parties peuvent être considérés valoir aux propriétaires depuis 20 à 50 louis, eu égard au prix que toutes choses s'y vendent. Tous ces habitans ont bœufs, chevaux, vaches, moutons, et autres animaux du pays, dont les différentes espèces s'augmentent considérablement.

Deux moulins à eau pour les grains y sont construits: l'un est à Carleton, et l'autre à Bonaventure, surnommée Hamilton; et un troisième a été construit à Carlisle l'année dernière.

Carlisle porte le nom de ville; elle a été commencée par les royalistes en 1784 ou 1785, et la cour des plaidoyers communs établie en 1787. Cette place est au centre de la partie la plus habitée du district; les terres de ce nouvel établissement joignent à celles d'Hamilton et de Paspebiac, ce qui comprend un espace de trois lieues, dont les terres sont concédées et en grande partie cultivées avec succès, le

sol en étant fort bon ; le nombre des habitans qui y sont resté peut être de 30 à 40 familles, dont la plupart vivent de leurs travaux rurales.

Paspebiac est un établissement où il y a 25 à 30 familles, lesquelles pêchent beaucoup et cultivent peu.

La Nouvelle, le Port Daniel, Pabeau, la Grande Rivière et le Cap Désespoir, sont des peuplades qui ne sont composées que d'un petit nombre de familles chacune, lesquelles pêchent beaucoup et cultivent peu.

Percé, l'Île de Bonaventure, le Barachois St. Jean, la Pointe St. Pierre et la Grande Grave, sont des peuplades dont les habitans vivent presque totalement de la pêche; le nombre des familles qui y sont fixées peut être de 60 à 80 au moins, dont une petite partie cultivent quelques terres. En été un grand concours de peuples pêcheurs, de différens endroits, y viennent pêcher et commercer, dont la durée peut être de 4 à 5 mois, durant lesquels beaucoup d'affaires ont lieu.

Douglasstown, Gaspé, et la Rivière aux Renards sont des établissements dont les habitants sont en grande partie agriculteurs, mais qui tous font aussi la pêche du saumon et de la morue; le nombre des familles qui résident dans ces différents endroits peut être de 60 à 80 au moins.

L'espace entre Ristigouche et Gaspé peut être de 60 à 70 lieues; la communication des établissements entre Gaspé et le Port Daniel, et de Gaspé à la Rivière aux Renards, ne peut en été être effectués que par eau, et en hiver très difficilement par terre, pour cause qu'il n'y a point de chemins ouvert entr'eux, et qu'ils sont séparés par des baies, bois, montagnes et rivières: il en est à peu près la même chose entre le Port Daniel et Ristigouche, car en hiver, dans tout ce district, on ne peut y voyager qu'en raquettes, avec des chiens pour traîner les choses indispensables à de tels voyages.

Les blés, pois, avoines, orges, lins, racines et légumes de différentes espèces y viennent à perfection.

Les deux-tiers et même les trois-quarts des habitans de ce district sont Acadiens et Canadiens, et le reste de différentes nations.

Par la description véridique ci-dessus, je pense, Monsieur, que vous concevrez aisément, ~~quel est le nombre~~

a été très mal informée de la vraie situation du District de Gaspé, lequel mérite sa sage considération ; et de plus, qu'il est absolument impossible qu'un seul juge y puisse administrer la justice, à la convenance du peuple qui l'habite, particulièrement en été, saison dans laquelle toutes les grandes affaires s'y font dans le même temps, et dans toutes ses parties depuis Ristigouche à Percé, et à des distances très considérables les unes des autres. Or, s'il n'y a qu'un seul juge, pourra-t-il administrer la justice partout et dans le même temps ? Non ! car pendant qu'une partie des gens d'affaires à Percé jouiront du bénéfice de son ministère, ceux de Ristigouche et de Carleton demeureront en souffrance, et exposée à des pertes certaines, par tel privations.

Par ce qui précède, je conçoit que si la législation ne résout pas d'accorder à ce grand district, qui est à une distance de 160 lieues de Québec, trois juges, qu'elle ne peut se dispenser de lui en accorder deux, qui entendent également l'anglais et le français, de même aussi les greffiers, et de les établir de la manière qui suit, savoir :

De former deux juridictions dans ce grand district, dont la première comprendra le Port Daniel et Ristigouche.

La seconde comprendra Pabeau, et le reste du district jusqu'au Cap Chat.

La première de ces juridictions aura au moins trente-deux lieues d'étendue, dont le siège sera à Carleton.

La seconde aura quarante à cinquante lieues, dont le siège sera à Percé dans chacune une cour y sera tenu chaque quinze jours.

En cas d'empêchement quelconques, comme de maladies, intérêts, et autres définies par la loi, et cas imprévues, les juges se suppléeront, dans l'une ou l'autre des juridictions.

Les juges pourront juger pour toutes sommes et affaires quelconques.

Aucun appel ne pourra être intenté que pour sommes au-dessus de £15 sterling.

Aucun circuit n'aura lieu, vu les dangers et les difficultés de les faire.

£250 seront alloués aux juges, et £50 à chacun des greffiers, en sus des honoraires autorisés par la loi.

Trois ~~_____~~ pour le jugement seront alloués

Les défauts simples par la loi de huit jours seront prolongés de quinzaine en quinzaine, le second défaut de quinzaine, et l'exécution suivra immédiatement le jugement, ainsi les exécutions ne sortiront que de quinze jours en quinze jours du jour du jugement, excepté dans le cas de double défaut, lequel sera suivis de l'exécution immédiate du jugement, pour sommes au-dessous de £15 sterlings, et quatre jours après la date du jugement, si acte d'appel n'est pas fait dans ces quatre jours, filés au greffe, et cautions fournis selon la loi.

A l'égard du criminel c'est un objet de la plus grande importance pour ce district, eu égard à son grand éloignement de Québec. Cet objet mérite certainement l'attention sérieuse de la législation, car il me paraît très dangereux d'exposer l'honneur et la liberté des sujets de Sa Majesté, à l'impérétie de la plupart des juges à paix de ce district.

A l'égard des cours de sessions, elles ne peuvent avoir lieu, vu qu'il est très difficile d'y avoir des corps de jurés, et que c'est fort dommageable pour ceux qui s'y rendent, donc aucun corps de jurés ne devrait être sommées que dans les cas qui les pourrait requérir.

Pour n'être pas trop prolix je me renfermerai à ce qui précède, et conclu par me dire être avec, tous les égards respectueux qui vous sont dues,

Monsieur,

Votre très humble, très obéissant serviteur,

L. FROMENTEAU.

Monsieur J. A. Panet, écuyer,
J. C. P. C.

NOTES BY JACQUES VIGER, ESQ.,

I. Sur la prise du *Village de St. Régis* par les Américains durant la dernière guerre avec les Etats-Unis.

" On the 23rd of October, 1812, a party of near 400
" Americans from Plattsburg, under Major *Young*, surprised
" the picquet at the Indian Village of St. Régis: 23 men
" were made prisoners by the enemy, and Lieut. *Rottotte*,
" (*) a Sergeant *McGillivray* and six men were left dead.

(*) Ecrivons, Rototte, J. V.

"The picquet consisted of a detachment of *Canadiens Voyageurs*, (extrait de mémoires &c., par R. Christie, Ecr., Québec, 1818, page 63.) (See also History of Lower Canada, vol. 2, page 49.—R. C.)

Il y aurait plus d'une erreur dans ce court récit de la prise de St. Régis par Mr. Christie, si on le compare avec le suivant ; et je crois mon récit plus correct, le tenant de Mr. *Roupe* et de Mr. *Wm. Hall*, témoins oculaires, et qui, comme on va voir, ont figuré dans cette affaire : à eux donc la responsabilité des détails qu'on va lire, dont je me porte volontiers garant, vû la respectabilité des narrateurs. Ce récit est encore *inédit*, et forme part et portion de *Ma Saberdoche*, dossier bleu, tome II, p. 168.

"Le Capitaine *De Montigny* était résident à St. Régis à titre d'interprète des Sauvages de ce village, mais n'y avait point de commandement militaire. Tous les Sauvages *sujets Anglais* étaient absents du village, et en service sur la frontière, à l'exception de trois seulement qui étaient à St. Régis. Les Sauvages appelés *Américains* y résidaient en bon nombre. Messires *Roupe* et *Marcoux* y étaient en qualité de missionnaires. (*)"

"Le 16 Octobre, le Capitaine *McDonnell* y vint prendre poste avec l'Enseigne *Rototte* (que M. Christie fait Lieutenant) et 48 *Voyageurs Canadiens*. M. le Lieutenant *Wm. Hall* joignit ce détachement le 17 au soir, sur l'ordre du Lieutenant-Colonel *McGillivray*, commandant le "corps des Voyageurs Canadiens."

"Dès le lendemain de son arrivée à St. Régis, M. Hall reçut avis, et le communiqua à son capitaine et à M. De Montigny, que les Américains, mécontents de la venue de ce piquet, parlèrent de venir l'attaquer, et l'enlever si possible ; et il conseilla, dit-il, à son officier commandant de se retirer dans une île qui est en face du village. On rejeta son avis avec une espèce de dédain. Des sentinelles furent placées hors et à distance du village, dont il était du devoir des subalternes de faire la visite à diverses heures du jour et de la nuit.

(*) M. *Marcoux* déservait sous M. *Roupe* en apprenant la langue sauvage. Il entra dans la mission en 1812, remplaça M. *Roupe* en 1813, et quitta St. Régis pour le Sault.

" Dans la journée du vendredi 22 Octobre, un de nos trois Sauvages, sujet loyal, et sur lequel on pouvait se fier, vint avertir de nouveau le commandant, qu'étant allé ce jour aux lignes et même au-delà, il avait vu qu'il se faisait certainement des préparatifs hostiles contre le poste de St. Régis. M. Hall renouvela son conseil de se retirer à l'île, mais MM. McDonnell et De Montigny furent encore d'opinion de n'en rien faire. Enfin, entre quatre et cinq heures du matin de samedi le 23 Octobre, par une nuit extraordinairement noire, et au moment même où M. Rototte, de retour d'une de ses rondes exprimait à M. Hall ses craintes d'une attaque prochaine, et que le détachement ne pourrait repousser, le village se trouva en effet cerné sur trois faces par au moins 300 Américains (infanterie et cavalerie,) qui firent aussitôt une décharge de mousqueterie sur la maison, éclairée par un grand feu, au-devant de laquelle les deux subalternes et le sergent *McGillivray* causaient ainsi, sans se douter que l'ennemi fut aussi près d'eux.

" L'Enseigne Rototte venait à peine de clore le calcul de ses appréhensions par cette triste réflexion, "*Est-il possible que l'obstination de notre chef nous expose ainsi à une mort sans profit et sans gloire ?*" quand il fut étendu mort sur la place, et le Sergent *McGillivray* grièvement blessé dans les reins (*) par le feu de cette première décharge. M. Hall se jeta dans la maison, pour y chercher du secours. Il y trouva peu de ses hommes; le capitaine venait de la quitter, et le détachement était dispersé. Une seconde décharge eut l'effet de tuer un voyageur du nom du *Prospay*, (†) et d'en blesser plusieurs autres, un surtout du nom de *Félix*.

" Pendant cette fusillade à la maison du Capitaine McDonnell, un parti d'Américains avait été s'emparer de M. Roupe, et il le vit amener par eux nu tête. Tout se termina là, M. McDonnell s'étant rendu prisonnier; et il ne fut échangé aucun coup de feu de notre part. M. Roupe fut aussitôt relâché que pris, et reconduit à son

(*) Mort depuis de sa blessure.

(†) Percé de huit balles, (M. Hall,) il était de St. François du Lac, et se nommait *Nicolas*, (Reg. de St. Régis).

logis par un dragon ou cavalier français du parti américain, qui l'affubla au retour, de son bonnet militaire, en s'en découvrant poliment la tête. On lui recommanda d'enterrer les morts et de soigner les blessés, ce qu'il promit de faire. M. Marcoux n'essuya point les avanies de son confrère missionnaire: il dut d'y échapper à la prudence d'un des engagés de leur maison, qui, au premier bruit des mousquets américains, songea à se mettre tout d'abord en sureté, et ne le fit pourtant pas en égoïste, car il entraîna de force avec lui M. *Marcoux*... et ils s'allèrent tous deux réfugier dans un appartement noir du bas de la maison, servant de *cendrière*, d'où ils sortirent un peu salis, lorsque la tranquillité fut rétablie dans le village.

"Les Américains que commandait un Major *Young* se retirent bientôt de St. Régis, emmenant prisonniers à la Rivière-aux-Saumons, les Capitaines McDonnell et De Montigny, le Lieutenant Hall, et trente-sept voyageurs, laissant derrière eux onze de ces mêmes hommes tant mort que blessés et égarés. De la Rivière-aux-Saumons ces prisonniers furent conduits, dès le lendemain, à Plattsburg, d'où ils furent tous renvoyés en Canada, le 6 Décembre suivant, sur parole de ne point servir, officiers et soldats, jusqu'à ce qu'ils fussent régulièrement échangés." (Vrai extrait.—J. V.)

"The Americans," ajoute M. *R. Christie*, "in plundering the village found an Ensign or Union Jack in the house of the resident interpreter, usually hoisted upon a flag-staff at the door of the chief on Sundays or Holy-days, which, said the American Major, in an order issued upon the occasion (not a little proud of the achievement) *were the first colours taken during the war!!!* (Ib., page 63,) 1846.—J. V.

ALBANY, N. Y., 24th August, 1853.

SIR,—In the third volume of your History of Lower Canada (page 399.) which I regret has but recently come under my notice, I find the following: "An excited multitude, headed and led on by Mr. Tracey himself, had set "at defiance the Special Constables, &c., &c., &c." I wish to call your attention to the above extract, and to say that

so far as the same relates to Mr. Tracey's heading and leading on an excited multitude it is incorrect, and nowhere can you find an authority worthy of an impartial historian, to warrant you in making the statement you have made so far as the late Mr. Tracey is concerned. At the time I was a resident of Montreal, and from my own personal knowledge was cognizant of the fact that Mr. Tracey did all that one man could do to allay an excitement which was principally caused by the tactics of his opponents in procrastinating the election by bringing only one voter within each hour to the polls, a practice at that time which the law sanctioned in Lower Canada. Therefore, in justice to the memory of a departed brother whose good name and reputation is dear to me and to my children, I respectfully call your attention to the error you have committed in his regard, and request an early correction of the same, an error which I suppose was caused by erroneous impressions, and not from the malignant desire to defame the memory of the dead. Although Mr. Tracey was a political opponent of yours, yet I will expect this justice at your hands. The man who aspires to be the historian of a country that is destined to greatness will have magnanimity enough to do justice to the memory of a political opponent who now lies mouldering in his grave. In this hope permit me to subscribe myself

Your obedient servant,

JOHN TRACEY.

Robert Christie, Esq.,

The above was received at Gaspé in September, 1853, while on a tour of business to that district, and should have had a place in volume 5, but by oversight was omitted. The difficulty of ascertaining the precise facts attending untoward events in times of intense public excitement is but too well known. On this unhappy affair the different newspaper reports of it were consulted, and the statement here quoted was gathered from those which then seemed to me, by all I had heard of the matter, nearest the truth. I must, however, say that by recent and I believe,

better information given me, to which I give credence, it seems that Doctor Tracey's bearing, with respect to the mass assembled on the occasion, and exceedingly excited, was really not as represented. That on the contrary, he was in the act of quietly retiring in company with a friend or two at the moment when the troops fired upon the multitude, and not engaged in leading them on. That Doctor Tracey took an active part in the politics and agitation of the times in which he lived is far from discreditable to him. What true patriot does not take an interest in the stirring political affairs of his country? Would we this day enjoy in Canada the political freedom we do, with the government of our own local concerns, had such agitations never taken place? For the rest, Mr. Tracey does but justice in believing the passage to which he has called my attention, to have been caused by no "malignant desire to defame the memory of the dead," and his belief will, I trust, should the present meet his eye, be confirmed.

R. C.

Quebec, May, 1855.

Full scope having been freely afforded Doctor Wolfred Nelson to explain himself in the previous volume on the misunderstanding subsisting between him and Mr. Papineau's friends, arising out of the untoward affair at St. Denis, in November, 1837, it is in equal justice due to Mr. P. and his friends, to put also on record what they have to say on the subject. The following addressed to me by L. A. Dessaulles, Esq., is therefore inserted, with which it is to be hoped this most unsatisfactory discussion will be at an end.

R. C.

ST. HYACINTHE, 15 Mars 1855.

R. Christie, Ecr.,
Québec.

MONSIEUR.—Je lisais, il y quelque temps, le cinquième volume de votre intéressante Histoire du Canada, et je suis
4. à la page 222 sur un post-scriptum contenant quel-

ques extraits d'une lettre à vous écrite par le Docteur Wolfred Nelson, en date du 24 Mars 1853. Cette lettre contient des explications au sujet de la polémique qui a eu lieu entre le Docteur et moi, comme défenseur de M. Papineau, à propos du départ de ce dernier de St. Denis, le 23 Novembre 1857.

Ces explications ne sont rien autre chose qu'une nouvelle attaque contre M. Papineau et contre moi personnellement ; attaque tout aussi injustifiable que les précédentes, et consignée dans un ouvrage que personne, dorénavant en Canada, ne négligera de placer au premier rang des livres utiles et instructifs, dans sa bibliothèque. Ce n'est donc pas cette fois une agression passagère comme la feuille d'un journal, c'est une attaque qui subsistera aussi longtemps que le livre qui la contient.

Les explications du Docteur contenant sur mon propre compte, et à l'égard de M. Papineau, des avancées *entièrement inexactes*, je ne puis les laisser passer sans réponse à ceux qui viendront après nous, car la défense a droit au même caractère de permanence que l'attaque : et comme elles contiennent de plus un aveu très important en faveur de M. Papineau, je dois à celui-ci, dont je me suis constitué le défenseur, de prendre acte de cet aveu dans l'ouvrage même où l'on est venu affirmer de nouveau les calomnies de 1848.

Je n'ai rompu le silence que par suite de cette nouvelle tentative de perpétuer des accusations que je sais être fausses. Dans des matières de cette importance, le silence est souvent pris pour un aveu formel.

J'ai certainement autant de droit de défendre M. Papineau que le Docteur Nelson peut en avoir eu de l'indiquer comme point de mire au mépris public ; et j'ai, de plus que le Docteur, le devoir de continuer ma défense d'un homme déloyalement attaqué.

Voilà, Monsieur, pourquoi je viens réclamer quelques pages de votre sixième volume, comptant avec toute confiance sur l'impartialité dont vous avez déjà fait preuve, et qui me paraît caractériser particulièrement votre excellent ouvrage.

Avant de passer à l'examen de la lettre du Dr. Nelson,

je crois devoir établir quelles étaient les positions respectives des parties à la suite de la discussion de 1848.

Le dimanche, 21 Mai 1848, le Dr. Nelson alla faire une visite à ses électeurs du Comté de Richelieu, et fit des discours politiques aux portes des églises de St. Aimé, St. Barnabé et St. Judes. Il fit publier ces discours dans la *Minerve* du 25. Le Docteur y faisait à M. Papineau le reproche de s'être sauvé de St. Denis, *et d'avoir fui durant la mêlée.*

M. Papineau répondit par un article plein de force et de sens, inséré dans l'*Avenir* du 3 Juin 1848; nia péremptoirement l'accusation du Docteur, et affirma qu'il n'était parti de St. Denis que sur l'ordre même du Docteur.

Celui-ci nia le fait, et publia successivement quatre longues lettres où M. Papineau était attaqué avec un acharnement incroyable, et dans lesquelles il faisait des révélations graves et dévoilait des faits qui étaient jusqu'alors restés secrets; ou qui, du moins, *n'avaient jamais été avoués* par ceux qui y avaient pris part.

M. Papineau se trouvant alors placé, par l'irréflexion de son agresseur, sur le terrain brûlant des révélations compromettantes *pour autrui*, se décida à se retirer de la lutte et à rester dorénavant strictement étranger à une discussion dans laquelle il ne pouvait plus se défendre qu'en manquant au secret auquel il se croyait tenu, sinon envers le Docteur personnellement, au moins à l'égard des autres personnes qui avaient agi avec eux.

Voilà pourquoi M. Papineau n'écrivit plus un seul mot après son article du 3 Juin, 1848.

Vers le mois de Septembre suivant, voyant les ennemis de M. Papineau continuer sans relâche, depuis trois mois, leurs attaques et leurs injures, j'entrepris sérieusement sa défense, non parce qu'il était mon parent, mais parce qu'il me semblait utile et honorable tout à la fois de combattre et de flétrir l'imposture.

Les amis du Docteur avaient publié de nombreux *affidavits* au moyen desquels ils *prétendaient démontrer* que le départ de M. Papineau de St. Denis était une lâche désertion. Je publiai, de mon côté, d'autres *affidavits* au moyen desquels je prouvai que M. Papineau n'avait laissé

St. Denis que par suite des *injonctions positives, et des instances pressantes et réitérées* du Dr. Nelson.

Je dis que les amis du Docteur *prétendaient démontrer*, etc., et que moi *je prouvais*, etc.—Voici pourquoi.

Qu'un homme décidé à s'éclairer consciencieusement sur la question alors en litige, lise aujourd'hui les témoignages produits au soutien de l'affirmation du Docteur, il verra que *tous ces témoignages, SANS EXCEPTION, se réduisent aux deux propositions suivantes* :

“ Je n'ai pas vu M. Papineau en conversation avec le Dr. Nelson le 23 Novembre 1837 ;” ou bien : “ Le Dr. Nelson, en revenant d'une excursion au devant des troupes, est descendu de cheval devant la maison de Mme. St.-Germain, où il est entré, et n'en est sorti qu'après la bataille. Il n'a donc pas pu dire à M. Papineau, avant la bataille, de laisser St. Denis.”

Voilà ce que seize témoins, y compris le Docteur, ont dit.

Les témoignages produits contre M. Papineau sont donc *purement négatifs* : c'est-à-dire que les témoins du Docteur affirment qu'ils n'ont *ni vu ni entendu* celui-ci parler à M. Papineau à une certaine heure. Ils nient le fait, parce qu'ils n'en ont pas eu connaissance : en d'autres termes, *ils admettent qu'ils ne savent rien* ! Voilà, en vérité, quelque chose d'accablant !!!

D'autres disent que le Docteur, étant dans la maison de Mme. St.-Germain, n'a pas pu aller chez lui, et parler à M. Papineau. Mais il *n'y avait que cent verges* de la maison de Mme. St.-Germain à la sienne, Il a donc pu aller chez lui, et n'être pas absent plus de cinq minutes ! Il a donc pu revenir à la maison de Madame St.-Germain avant qu'on se soit aperçu qu'il en fût sorti ! Avec une distance de trois milles d'une maison à l'autre, l'induction que l'on a tirée du fait de sa présence chez Madame St.-Germain eût eu beaucoup de plausibilité et de force : mais avec cette faible distance de cent verges elle ne signifie plus rien !

J'admets néanmoins qu'en l'absence des témoignages *affirmatifs* que j'ai publiés, l'induction des ennemis de M. Papineau eût pu être considérée comme *strictement acceptable*.

Malheureusement pour le Docteur et les siens, j'ai trouvé plusieurs témoins qui ont affirmé...

AVAIENT VU le Dr. Nelson parler à M. Papineau dans et devant sa propre maison, *à l'heure même où les autres prétendaient qu'il n'avait pu le faire* : et qu'ils AVAIENT ENTENDU le Dr. Nelson, *à cette même heure*, prier M. Papineau de s'éloigner, et lui ordonner même de le faire, en lui représentant que si le malheur voulait qu'il fût tué, *la résistance devenait inutile*.

J'ai donc donné, moi, des preuves directes, positives, *établissant affirmativement* le fait nié par le Docteur et ses amis. Or, aux yeux de tout homme de sens, sachant ce que c'est qu'une preuve, la négation qu'un fait quelconque ait pu avoir lieu est nécessairement mise au néant par l'affirmation assermentée de l'existence réelle du fait contesté.

Le Dr. Nelson, avec ses dénégations, est donc précisément dans la position du prévenu qui nie le délit dont on l'accuse, mais qui est confondu par le témoignage de ceux qui l'ont vu le commettre.

L'affaire en était restée là et les ennemis de M. Papineau avaient fini par en prendre leur parti, quand le quatrième volume de votre Histoire du Canada est venu faire craindre au Dr. Nelson, par la nature des appréciations, pourtant bien impartiales, que vous aviez faites après avoir cité une partie de ses témoignages et des miens, que ce ne fût lui et non M. Papineau qui restât compromis dans l'avenir. Il vous a, en conséquence, écrit la lettre à laquelle je vais maintenant répondre.

Le Docteur commence ainsi ses explications :

“ Even after the order of nature, I must, ere long, render
 “ an account to my Maker, of my deeds here below. Well,
 “ Sir, I fear not to call MY GOD to witness that on the
 “ morning of the 23rd December 1837, I did not order
 “ Mr. Papineau to desist from his intention of going to
 “ join our compatriots to do battle with them against the
 “ troops that were coming up ! !..

A cette assertion du Docteur, voilà les preuves que j'ai opposées :

1o. Augustin Fontaine dépose sous serment :

Que la veille de l'engagement, à six heures du soir, il a entendu le Dr. Nelson dire qu'il fallait que M. Papineau s'en allât, parce qu'il ne pourrait être remplacé, s'il était tué.

20. Frs. Ménard dépose :

Que le jour de la bataille, vers six heures du matin, il a entendu le Dr. Nelson dire à M. Papineau, qu'ayant été élu Commandant, il lui *donnait l'ordre* de s'abstenir de combattre, et de mettre sa personne en sûreté.

30. Louis Brodeur dépose :

Que le 23 Novembre 1837, entre huit et neuf heures du matin, le Dr. Nelson, devant sa propre maison, lui a demandé s'il voulait prêter son cheval pour conduire M. Papineau à St. Hyacinthe.

40. Louis Lapré dépose :

Que peu de temps avant la bataille, entre neuf et dix heures du matin, il a vu le Dr. Nelson devant sa maison, en conversation avec M. Papineau, et qu'il l'a entendu dire à ce dernier qu'il devait partir de suite, ajoutant qu'il valait mieux perdre les deux tiers de ceux qui étaient là que M. Papineau seul.

50. Henri Lappare, Notaire, dépose :

Que quand, peu d'instants avant la bataille, le Docteur a donné l'ordre de se rendre à la maison de Madame St.-Germain, il a expressément *ordonné* à M. Papineau de s'éloigner.

60. *Moi même*, à neuf heures du matin, j'ai entendu le Dr. Nelson, dans sa propre maison, insister fortement à ce que M. Papineau s'éloignât ; et M. Papineau ayant observé que s'il partait dans un pareil moment, cela pourrait décourager leurs amis, et l'*exposer lui-même*, PLUS TARD, à de *graves reproches* ; le Docteur exigea, du ton le plus amical et le plus persuasif, que M. Papineau *se rendît à la raison*, ne s'exposât pas, et partit.

70. Louis Dragon dépose :

Que peu d'instants avant l'engagement, le Dr. Nelson l'informa, ainsi que plusieurs autres, qu'il avait dit à M. Papineau de partir, *parce qu'on aurait besoin de lui plus tard*.

80. Marcel Guertin dépose :

Que travaillant à une tranchée, avant la bataille, le Capitaine Jalbert lui avait dit que *lui et le Dr. Nelson avaient persisté* à faire partir M. Papineau, parce que sa tête était trop chère pour l'exposer.

90. George St.-Germain dépose :

Que le jour de la bataille il a entendu le Dr. Nelson dire à plusieurs personnes, qu'il avait *expressément ordonné* à M. Papineau de s'en aller, ne voulant pas l'exposer aux hasards d'un combat.

100. Louis Pagé affirme la même assertion à lui faite par le Docteur.

110. Bonaventure Viger, (un des exilés de la Bermude,) affirme que trois ou quatre jours après la bataille, le Dr. Nelson lui a dit qu'il *avait forcé* M. Papineau de partir.

120. V. T. Goddu, (un des exilés de la Bermude,) atteste qu'il a souvent entendu dire au Dr. Nelson, à la Bermude et aux Etats-Unis, qu'il *avait été obligé de se rendre maître* et qu'il *avait ordonné* à M. Papineau de se retirer de St. Denis au moment où la bataille allait s'engager.

130. Christophe l'réfontaine a entendu, en Mars 1839, dans une assemblée tenue à Corbeau, le Dr. Nelson *maltraiter* le Dr. Côte, parce que celui-ci affirmait que M. Papineau s'était sauvé en lâche de St. Denis, et lui dire que ce qu'il avançait était *faux* : que pour avancer de telles choses IL FALLAIT ETRE UN ETRE MÉPRISABLE : que lui, le Dr. Côte, était un lâche indigne de délier les cordons des souliers d'un homme comme M. Papineau : que M. Papineau n'était parti de St. Denis que sur *l'ordre exprès* de lui, Dr. Nelson . . . que le Dr. Nelson s'est querellé avec son propre frère pour défendre M. Papineau.

140. Anselme Tétro corrobore le témoignage précédent.

Voilà, certes, un faisceau de preuves devant lesquelles de *simples négations* sont bien ridicules ! Mes témoins ayant vu ou entendu ce qu'ils affirment, ceux du Docteur affirmant qu'ils n'ont rien vu, rien entendu, de quel côté est la certitude ?

Les témoignages donnés au soutien de l'assertion du Docteur étant donc maintenant annihilés par le seul fait qu'ils n'établissent et n'affirment rien, je vais démontrer que je n'avais pas strictement besoin de la masse de preuves que je viens de donner pour combattre le Docteur. Mon meilleur témoin contre le Dr. Nelson n'est autre que le Dr. Nelson lui-même, dont les nombreuses contradictions, les tergiversations incroyables, les variations infinies sur les

mêmes faits, valent certainement, contre lui-même, au moins autant que ses accusations pouvaient valoir contre M. Papineau.

Je vois donc, en 1848, le Dr. Nelson affirmer que M. Papineau *a fui durant la mêlée*, à St. Denis. D'un autre côté, je vois le même Dr. Nelson, en 1837 et en 1838, affirmer solennellement, en toute occasion, à ses plus intimes amis, que tel n'est pas le cas ; que le départ de M. Papineau ne peut être considéré comme une fuite ni un lâche abandon de ses amis, puisqu'il avait fallu les instances réitérées, l'insistance formelle et les injonctions positives de lui, Dr. Nelson, pour le décider à partir. Bien plus, en 1839, dans une assemblée publique, le Dr. Nelson est allé jusqu'à dire au Dr. Côte, que l'affirmation qu'il (le Dr. Côte) venait de faire, que M. Papineau s'était sauvé comme un lâche, était un mensonge, et ne pouvait *venir que d'un être méprisable*. Lequel croire maintenant, le Nelson de 48, ou le Nelson de 37, 38 et 39 ? (1) Si le Nelson de 48 disait vrai, comment celui de 39 avait-il pu porter l'audace au point de parler ainsi au Dr. Côte ?

Mais ce n'est pas tout. Après le Nelson de 1837 était venu le Nelson de 1848 ; eh bien ! après le Nelson de 1848 est venu le Nelson de 1853, qui en fait de contradictions et d'erreurs *sur les faits* renchérit encore sur ses *prédécesseurs*.

Voici donc l'aveu que fait le Docteur à la page 231 de votre cinquième volume, immédiatement après sa confirmation de ses déclarations de 1848, que j'ai citée plus haut.

“ But I freely admit that, previous to that morning (23 November 1837,) I told Mr. Papineau that we did not want him to fight.... ”

Il ne s'agit donc plus entre nous que d'une question de douze ou quinze heures. “ Je ne l'ai pas dit le jour même, ” dit le Docteur, “ mais j'ADMETS VOLONTIERS que je l'avais dit auparavant. ” Était-ce donc la peine de faire tout ce

(1) Et veuillez bien remarquer que les témoins qui établissent ces incompréhensibles contradictions sont tous pleins de vie, et sont prêts à corroborer leurs témoignages à la face du pays entier ? Si, avant de publier ma lettre, vous désiriez, pour votre propre satisfaction, les interroger vous-même, rien ne serait plus facile.

tapage, de soulever ainsi mer et monde contre M. Papineau, pour en arriver, finalement, à cet aveu ?

Et si auparavant signifiait la veille et l'avant-veille, comme c'est nécessairement et comme c'est *vraiment* le cas, quelle si grande différence pouvait-il donc y avoir entre les décisions du 22 et celles du 23 ? Est-il survenu quelques cas capital, quelque circonstance nouvelle et imprévue qui ait pu changer, du jour au lendemain, la détermination évidente, prouvée *et admise aujourd'hui*, du Docteur sur ce point : " Ne pas permettre à M. Papineau de s'exposer aux chances d'un combat ? " Evidemment non, puisque le Docteur ne l'a jamais dit. Pour ne pas se mettre *encore une fois* en contradiction avec lui-même, le Docteur devait, dans ses explications de 1853, donner les raisons pour lesquelles, après avoir dit à M. Papineau de partir, il s'était cru en droit de lui reprocher son départ. Une circonstance imprévue, survenue du 22 au 23, pouvait, sans doute, rendre raison d'un pareil changement ; mais au moins fallait-il la rappeler ! Rien d'imprévu ne survenant, on devait naturellement tenir, le 23, à la décision du 22 ; vu surtout la raison suivante, en vertu de laquelle le Docteur admet, en 1853, avoir agi en 1837 :

" That without him *all resistance would be unavailing.*"

Comment donc se ferait-il, avec une pareille conviction exprimée alors à tant de personnes, et que le Docteur admet avoir eue, " que M. Papineau mort, tout le mouvement de " cette époque eût été fait en pure perte," comment donc se ferait-il que le Docteur eût été assez indifférent à l'avenir de l'œuvre à laquelle il s'associait, pour ne pas mettre à l'abri de tout risque la vie du seul homme, qu'à tort ou à raison, il croyait capable d'asseoir cette œuvre sur des bases solides et durables ? C'eût été non pas seulement de l'indifférence, mais une inexcusable étourderie !

Maintenant, pourquoi le Dr. Nelson n'a-t-il pas fait, en 1848, l'aveu qu'il est venu faire en 1853 ? Pourquoi, en 1848, a-t-il *si invariablement nié* qu'il eût jamais dit à M. Papineau de partir ? Est-il honorable pour le Dr. Nelson d'avoir *sciemment* caché, en 1848, un fait qui atténuait toujours un peu les prétendus torts de M. Papineau ? Si, par passion contre son ancien ami, il a fait, de propos déli-

ne peut-on pas, sans

loyauté, soupçonner qu'il a pu en faire d'autres ? Puisqu'il a caché une partie essentielle de la vérité, en 1848, il n'était donc pas strictement sincère, *strictement loyal* envers M. Papineau ! Son témoignage n'était donc pas aussi *strictement consciencieux* qu'il s'est plu à le dire ! !

En dernière analyse, les contradictions et les aveux du Docteur me paraissent nullifier complètement ses accusations : et les preuves que j'ai produites me paraissent démontrer péremptoirement que ses dénégations et celles de ses amis restent sans la moindre valeur.

Maintenant quels motifs le Docteur assigne-t-il à sa conduite ?

Répondant à une remarque que vous aviez faite " que l'opinion générale vous paraissait être que le Docteur aurait mieux agi en gardant le silence sur ce sujet," il dit :

" Had Mr. P—'s most indiscreet nephew Mr. D—, not said he had seen me, on the morning of the battle, wrest a gun from his uncle's hands, and order him to keep away, I should not have been at the pains of proving that he had placed himself, by his gratuitous volunteering to screen Mr. P—, in a most reprehensible position, in asseverating a thing that was not. Indeed, it is mainly due to this extremely inconsiderate young man, if ever any open breach took place between Mr. Papineau and myself."

Voilà donc la raison d'action du Docteur définie et expliquée par lui-même.

" M. Dessaulles a dit des faussetés, et voilà pourquoi j'ai parlé. C'est lui surtout qui est la cause de ma rupture avec M. Papineau."

En admettant, pour un moment, que j'aie dit ce que le Dr. Nelson me prête tout gratuitement, M. Papineau ne pouvait raisonnablement pas être tenu pour responsable de mes paroles : d'autant plus que le Docteur m'ayant souvent, en 1848 et depuis, fait la faveur de me traiter d'indiscret, d'inconsidéré, d'écervelé, il était infiniment injuste de faire remonter à M. Papineau la responsabilité des *dires d'un étourdi* ! Cette raison ne prouve donc guères en faveur du profond jugement de celui qui la donne, mais il y a plus.

Le Docteur a, malheureusement pour lui, commis une énorme inadvertance, en me ra-

tion qu'il m'attribue, la cause de sa rupture avec M. Papineau, car la déclaration faite par moi à laquelle le Docteur fait allusion, en la défigurant étrangement ; car mon *affidavit* enfin, dans lequel j'affirme que j'ai entendu le Docteur supplier M. Papineau de laisser St. Denis, EST POSTÉRIEUR à tous ses écrits contre M. Papineau. Citons les dates :

Les écrits du Docteur contre M. Papineau ont été publiés le 25 Mai, le 6 Juin, le 10 et le 24 Juillet, et sa déclaration faite sur l'honneur, le 21 Août 1848. Or, ma propre déclaration, datée du 23 Septembre, a été publiée le 7 Octobre, cinq mois après la première attaque du Docteur ! Et celui-ci dit que c'est moi qui l'ai forcé de parler !! Et il me traite d'étourdi dans la phrase même où il commet une aussi risible inadvertance !!

Mais ce n'est pas tout encore ;

“ Si M. Dessaulles n'avait pas dit, (dit le Docteur,) qu'il m'avait vu arracher un fusil des mains de son oncle, je n'aurais pas été obligé, etc., etc., etc.”

Ceci est quelque chose de plus qu'une inadvertance, car c'est une pure fable inventée tout exprès pour l'occasion.

Je n'ai jamais dit telle chose, quel qu'indirectement que ce soit. Je n'ai jamais écrit une ligne, jamais dit un mot qui eût le moindre rapport à ce fait.

Le Docteur a donc fort malheureusement choisi ses motifs.

“ I opposed Mr. D. B. Viger in Richelieu, and from that moment young D— young P— attacked me in the most scurrilous manner, and attempted to ruin me in my county.”

En supposant que le jeune P—et le jeune D— aient fait tout cela, ce que je nie formellement, cela ne justifie guères l'attaque du Docteur, car M. Papineau était en France alors, et n'en est revenu qu'un an après la lutte du Docteur contre M. Viger.

“ I had palpable proof that he (Mr. Papineau) lent himself to some intrigue to destroy me in the opinion of my electors, and accused me of being the cause of the rising in 1837. It was then only I was compelled to act in my own defence.”

Voilà encore de ces avancés que l'on ne peut qualifier exactement parce qu'il faudrait employer des mots trop durs.

Où est donc cette preuve palpable que M. Papineau ait jamais porté cette accusation contre le Docteur ! Celui-ci l'a-t-il jamais publiée ? Non ; il n'y a même jamais fait allusion dans ses écrits. C'est encore une raison créée après coup, et qui n'a jamais existé, même dans l'imagination du Docteur, avant 1853 : voilà ce que je crois pouvoir démontrer évidemment.

Le Docteur disant qu'il avait eu la preuve palpable que M. Papineau l'accusait d'être la cause de l'insurrection, et que c'était *cette accusation qui l'avait forcé de se défendre*, cela implique nécessairement qu'il était en possession de cette preuve *avant d'avoir écrit* contre M. Papineau. Puisqu'il dit aujourd'hui qu'en 1848 il *a été forcé d'écrire* pour se défendre du reproche d'avoir été la seule cause de l'insurrection, il a du, dès son premier écrit contre M. Papineau, faire allusion à cette prétendue attaque de M. Papineau, et la repousser.

Eh bien, que l'on remonte au premier écrit du Docteur contre M. Papineau ; à ce discours qu'il a fait publier dans la *Minerve* du 25 Mai 1848, et on verra que le Docteur, loin de faire ce reproche à M. Papineau, *l'en exonérait à peu près formellement*, au contraire, car voilà ce que je lis, dans la dernière colonne.

“ Certains parents et amis de Messieurs D. B. Viger et L. J. Papineau eurent la bassesse, la malignité *alors*, (dans la lutte du Docteur contre M. Viger, en 1844,) de m'accuser de vouloir de nouveau plonger le pays dans le trouble. . . . Ces vils et méprisables calomniateurs, naturellement lâches, ont eu l'audace *alors* de m'accuser d'être seul la cause de la rebellion.”

D'abord, ici encore, le Docteur, pour trouver matière à reproche, remonte à sa lutte contre M. Viger, *un an avant le retour* de M. Papineau ; puis, c'est *des parents* de MM. Viger et Papineau qu'il se plaint, nullement de ces Messieurs eux mêmes. Maintenant, dans aucun de ses écrits, le Docteur a-t-il reproché à M. Papineau d'avoir, depuis son retour de France, tenu le propos dont il se plaint ? Non. Il est donc évident, puisque le Docteur

ni dans les autres, ne fait même allusion à ce propos, qu'il n'a *jamaïs eu en main* la preuve palpable que M. Papineau l'ai tenu. S'il l'avait eue, il avait trop le désir de mettre M. Papineau dans son tort, pour se contenter de faire aux parents de M. Papineau un reproche que celui-ci eût mérité. Son assertion du 24 Mars 1853, donnée comme justification de sa conduite, est donc détruite par ses propres paroles de 1848. Le Docteur aime un peu trop passionnément à se mettre en contradiction avec lui-même, et il joue décidément de malheur dans ses réminiscences.

Mais au moins la date du seul écrit de M. Papineau contre le Docteur implique-t-elle que celui-ci se défendait ? Hélas, non. Ici encore les dates seules prouvent que ce *n'est pas le Docteur* qui a été forcé de se défendre.

Dans son discours du 12 Mai 1848, le Docteur désignait clairement M. Papineau comme *ayant fui durant la mêlée*, et lui faisait nombre d'autres reproches. C'est à ce discours que M. Papineau répondit dans son article du 31 Mai, publié le 6 Juin. Ce n'est donc pas de M. Papineau qu'est venue l'attaque. Après cet écrit le Docteur a publié trois longues lettres toutes plus agressives, plus acharnées les unes que les autres, et M. Papineau n'a pas répondu un mot. Comment donc peut-il avoir été l'agresseur ?—Ses neveux m'ont répondu, a dit le Docteur,—excellente preuve que ce n'était pas M. Papineau : admission formelle que le Docteur n'a pas été attaqué par nous.

Non, le Docteur n'a pas été plus sincère dans ses explications de 1853 que dans ses attaques de 1848. Chercher aujourd'hui à faire retomber sur moi la responsabilité de cette regrettable lutte, c'est commettre d'abord une grotesque naïveté, c'est admettre ensuite qu'on n'avait pas la moindre raison plausible à donner.

En s'attribuant aujourd'hui des raisons d'agir aussi insoutenables, aussi évidemment controuvées, aussi gauchement inventées que celles que l'on vient de lire, le Docteur a prouvé que la passion seule l'a guidé, sinon l'intérêt. Les motifs qu'il s'est attribués en 1853 ne pouvant pas être ses vrais motifs, nous avons maintenant le droit de rechercher ceux-ci.

Vous les aviez parfaitement indiqués et analysés vous-
~~mêmes dans votre~~ *de la page 535 de votre*

trième volume. Le Docteur, en 1848, *était alors passé corps et âme sous la tutelle d'un autre patron*, dont il espérait recevoir une indemnité pour les pertes qu'il avait subies en 1837. C'était principalement l'espoir de le voir obtenir cette indemnité, qui avait porté ses créanciers du Comté de Richelieu à faire de si grands efforts en 1844, pour l'élire à la place de M. Viger. Un de ses partisans les plus influents et en même temps son créancier me disait, en " 1845 " : Je sais bien que le Docteur ne peut être comparé " à M. Viger, mais M. Viger n'aurait pas eu le même intérêt à nous faire indemniser que le Docteur."

Si M. Papineau n'était pas rentré dans la vie publique, le Dr. Nelson n'eût, sans aucun doute, jamais dit un seul mot contre lui, car jusqu'en 1847, il avait invariablement témoigné à M. Papineau la même estime, la même confiance, le même respect, la même affection qu'avant l'insurrection. Il n'avait jamais parlé de M. Papineau, en public et privé, que sur le ton de la plus vive sympathie. C'est lui qui, en 1839, avait fourni à la *Revue Démocratique* les nombreux détails qu'elle avait publiés sur la vie publique et privée de M. Papineau, dans lesquels chaque phrase était un éloge et une sanction de sa conduite. Le Docteur s'était querellé avec son propre frère, et cela au point de cesser tous rapports avec lui, plutôt que de reconnaître les torts qu'il attribue aujourd'hui à M. Papineau. Au retour de M. Papineau, en 1845, le Docteur alla lui faire visite, et la même cordialité continua de régner entre eux.

Avant le discours du Dr. Nelson, publié le 25 Mai 1848, M. Papineau *n'avait jamais dit, ni publiquement ni privé-ment, un seul mot qui pût déplaire au Docteur*. Celui-ci n'a jamais cité un seul mot qu'il pût reprocher à M. Papineau.

Mais quand M. Papineau, sollicité par plusieurs comtés, eût enfin consenti à se laisser élire, et osa dire, *sans consulter M. Lafontaine*, que ceux qui avaient accepté l'Union avaient trahi les plus chers intérêts du pays, grande fut l'irritation parmi les amis de ce dernier. Chacun s'était largement casé, chacun dormait tranquille sur sa part du butin : le Docteur savait que M. Lafontaine, une fois Ministre, proposerait une loi d'indemnité : une agitation constitutionnelle, que l'on croyait M. Papineau égaré.

provoquer, compromettait tous ces intérêts et toutes ces espérances : on décida donc de jouer le tout pour le tout, et de déconsidérer M. Papineau ou de périr à la peine. Il ne s'agissait plus que de trouver l'instrument. Le Docteur fut indiqué, et après avoir fait semblant de se faire prier un peu pour servir ainsi de projectile à une immense jalousie de coterie, il finit par se laisser lancer sur M. Papineau de toute la force de sa soif d'indemnité.

Je n'affirmerais pas sans doute qu'il ait formellement *fait marché de ses services*, mais il en a certainement été payé. Que ce soit par M. Hincks plutôt que par M. Lafontaine, comme le prétend le Docteur, cela ne change rien à l'affaire, et je prétends, moi, que c'est par tous les deux. A part l'emploi d'Inspecteur des Prisons, à £500 de salaire annuel, qu'il occupe aujourd'hui, il a reçu, tant pour ses créanciers que pour lui-même, une somme qui excède QUATORZE MILLE LOUIS.

Vous avez donc été excessivement modéré dans vos appréciations de sa conduite et de ses motifs.

Je crois maintenant avoir réussi à démontrer :

1o. Que M. Papineau a été injustement accusé par le Docteur Nelson.

2o. Que toute la responsabilité de cette malheureuse querelle doit retomber sur le Docteur Nelson seul, qui a publiquement attaqué M. Papineau sans que celui-ci lui en eût jamais fourni le moindre prétexte : qui, sachant que M. Papineau s'était retiré de la lutte, n'en a pas moins persisté à l'attaquer *tout comme s'il s'était défendu*, droit qui ne lui était pourtant pas interdit : *qui a seul dévoilé les secrets de cette époque*, sans se soucier le moins du monde du ridicule qui en rejaillirait nécessairement sur la cause qu'il avait épousée ; et qui enfin, quand il a cru devoir expliquer ses motifs, s'est compromis par cette explication même, et par les contradictions et les assertions *inexactes* qu'elle contient, plus fortement encore qu'il ne l'avait fait en premier lieu.

Les explications du Docteur ont donc tourné contre lui-même, et n'auront servi qu'à rendre plus claires, plus indéniables encore, la passion qui l'a guidé, la haine inexplicable qui l'a inspiré, et peut être même la convoitise qui

l'a poussé. Il s'est fait à lui-même tout autant de mal par ses aveux et ses inadvertances que j'ai j'aurais pu lui en faire par mes preuves et mes réponses. Cela prouve que quoique l'on fasse, *la raison a toujours ses droits, contre lesquels, par la seule logique des événements, viennent tôt ou tard échouer la sottise, les préjugés ou la calomnie.*—

(De Balzac.)

J'ai l'honneur d'être, Monsieur,
Avec la plus haute considération,
Votre obéissant et dévoué serviteur,

L. A. DESSAULLES.

END OF VOLUME SIXTH.

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